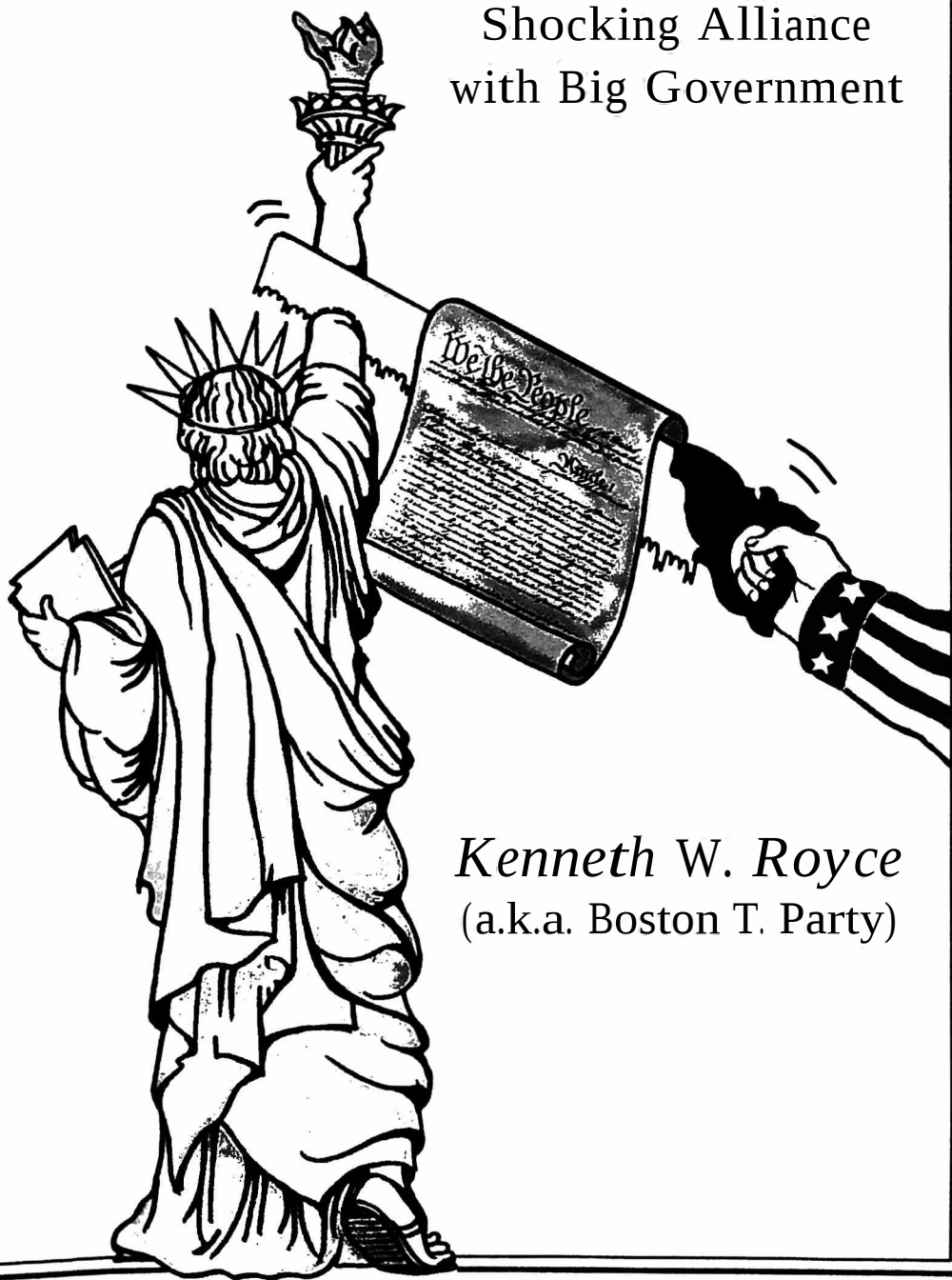


Hologram of Liberty

The Constitution's
Shocking Alliance
with Big Government



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(a.k.a. Boston T. Party)

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*The Constitution's Shocking Alliance
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by

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Published by

JAVELIN PRESS

c/o P.O. Box 31 H, Ignacio, Colorado. (81137-0031)

{Without any 4 USC §§ 105-110 "Federal area" or "State."}

www.javelinpress.com

PREFACE

holo·gram (hal' a gram) *n.* [< Gr. *holos*, whole + *gramma*, writing] **1.** a contrived image of technically sophisticated refraction purporting to be a solid due to its 3-D appearance **2.** a document falsely representing itself as an accurate metaphor

People never give up their liberties but under some delusion.
-- Edmund Burke (1784)

I have seen servants upon horses, and princes walking as servants upon the earth.
-- Ecclesiastes 10:7

Probably 80% of Americans feel that the Federal Government has become too powerful and too intrusive. Not only that, they don't quite understand *how* this came to be--or what to *do* about it. In this century alone, government has grown *500 times faster* than its citizens. **How has this happened? Where has our Republic gone? Wasn't the Constitution supposed to *check* cancerous federal growth and *protect* our liberties?**

Yes, the Constitution was *supposed* to do that, *according to our civic mythology*. This mythology, however, collapses when constitutional text and history are coldly analyzed. It collapses when one merely "looks around"--the feds take *one-third* of our productivity and regulate everything from the price of corn to the size of chimneys. There never was a 10th Amendment of any practical meaning. **The feds can do anything.** Profound discontent existed even 127 years ago:

The Constitution has either authorized such a government as we have had, or has been powerless to prevent it.
-- Lysander Spooner; *No Treason* (1870)

Americans do not *know* the Constitution; only one in 100 can correctly name James Madison its "Father"; only one in 1,000 can name the Bill of Rights. Constitutional knowledge has ceased to exist but the *folklore* parades on. We *believe* the Framers' "ad copy" of 1787-88: the Constitution was created by sublime statesmen, so it's quasi-sacred--off-limits *arguendo*. We blast Congress and the President and the judges, but not the document which created the whole stage play.

Despite our constitutional mythology, despite our tradition of liberty, we keep sinking to the historically cyclical depths of despotism. Such has already occurred in England:

*A recurrent nightmare, with me, is that in our inimitable English way **we are allowing a servile State to come to pass of itself without our noticing It**; that one morning I shall wake up and find that, with the Monarchy still extant, Honourable...Members still meeting in Westminster, the Times...still regularly appearing, the cricket still being played at Lords, and the B.B.C. still providing its daily offering...we **have nevertheless become a totalitarian society**. In this nightmare it seems clear that all the faceless men, the men without opinions, have been posted in key positions for a bloodless take-over, and that no one is prepared to join a Resistance Movement in defense of freedom **because no one remembers what freedom means**. The walls of Jericho fell down, not because the trumpet blast was strong, **but because the walls themselves were crumbling**. **People...are never enslaved unless they have become slaves already**. **They swim Into the Great Leviathan's mouth**. **He does not need to chase them**.*

-- Malcolm Muggeridge; *Farewell to Freedom?* (1954)

Hologram of Liberty is by far my most exciting, yet depressing, work. This book took me rather by surprise. It was like passing by a well-known building and hearing a puzzling sound from within. Venturing inside its familiar interior, I stumbled over a trap door leading to a cave with even stranger noises. Fueled by an exhilarating sense of discovery, I didn't know *where* the cave would lead me, but I had the firm impression that it had been only sparingly explored.

What I found at the end of that cave was no less than horrifying: Under the Constitution, Americans and their

states have *no* legally enforceable avenue to counter federal hegemony. (Worse yet, this was provably *intended* by the Framers.) The "puzzling sound" was an inconsistency in the Constitution's Preamble. We've all read it:

We the People of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

"What 'inconsistency'?" you're wondering. Linguistically, it's almost invisible. Spot it within this truncated quote:

We the People of the United States,...do ordain and establish this Constitution for the United States of America.

Now do you see it? **Why mention both the "United States" and the "United States of America?"** Doesn't that strike you as at least curious? Did you know that there's a difference between the "U.S." and the "U.S.A."? Did you know that the "United States" is actually a *corporation*, separate from the entire U.S.A.? The Founding Lawyers of 1787 knew exactly what they were doing and summarized it in the very first paragraph of their new corporate charter.

Do not dismiss this as impossibly arcane. The Constitution is not only a political document, but a body of law. In law "*the devil is in the details.*" Detailed language is the "atomic structure" of all legal matter. To understand the matter we need to study the atoms. While not governing text, the Preamble hinted at our eventual "corpocracy" (my term).

Too many State ratifying delegates of 1787-88 believed the federalist cheerleaders. Entranced with the glitteringly Newtonian system of political tension and counter-tension, weights, ropes, and pulleys--most delegates overlooked the magnificent ambiguities and pernicious subtleties of the radical document. Only the "anti-federalists" correctly discerned the alleged constitutional handcuffs on government to be mere *papier-mache*, painted to appear solid iron. The Framers won and we are still living under their system, baffled and forlorn at why it's not working as advertised.

That's exactly the point--it wasn't supposed to work as advertised. It was never *meant* to enshrine State autonomy or hold your individual rights over federal interests. And finally, it was never *meant* to stunt federal growth.

It is my conclusion that the Constitution and its Federal Government was the most protracted *coup d'etat* in history. 1787-88 was the first battle between the agrarian Jeffersonians and the banking, mercantile, elitist Hamiltonians. It **was our first civil war over philosophy.** The Platonist forces edged out the Aristotelians. This war rages on even today, and will continue while humans exist.

Since ratification, our federal masters have exhausted all explicit powers and stretched all ambiguities of constitutional language to their breaking point. The Constitution, as currently interpreted, now resembles what the Founding Lawyers truly desired in their aristocratic heart of hearts. Two centuries of history have lifted the veil from that picture of Dorian Gray, leaving us with the Hag of Hegemony.

The trouble is, most Americans still see the Constitution as that lovely virgin described in *The Federalist*. For over 200 years we've been in blind love with an apparition, a hologram of liberty. Let us finally learn the truth about the Constitution and make happier arrangements, while we still *have* at least our Bill of Rights.

The federalists were dissatisfied with the Constitution before its ink had even dried because their beloved "*energetic*" government would not be attained in their lifetimes--and they *knew* it. Hamilton himself blurted out the truth in 1792--that "*the Constitution was a shilly-shally thing of mere milk and water, which could not last, and was only good as a step to something better.*" He best understood its politically "schizophrenic" nature, calling it a "*frail and worthless fabric*" in 1802. The Constitution, enslaved to the Jeffersonian climate of the day *and* the federalist Framers' empire building, cannot help but vacillate between the two great diametrically opposed forces--Freedom and Big Government. Helplessly caught in the middle, the Constitution will soon be radically altered (if not replaced) by one of those two forces.

I realize how controversial this book will become, however, my resources are "orthodox" and my conclusions (especially when contrasted with current events) seem inescapable. I know how awful my premise sounds on its face, but my research is at least circumstantially *compelling*, if not conclusive. **The Platonist Hamiltonians won.** We're only just now realizing it, waking from our Jeffersonian dream.

You doubt that...your great country...is on the wane? I say only this--look around you.

-- Saint Griseus

The conclusions reached are mine alone. During your reading, *know that I am for true Liberty under a constitution*, even though I disparage our current constitutional hologram.

Epecially since I disparage our constitutional hologram. **A documentary guarantee of our freedoms--some real limits on government--requires substance, not just clever form.** It's time we finally see through the form and learn how truly *hollow* that venerated parchment has always been. I am willing to know the truth, at all costs. *Are you?*

Liberty has always been a 4th quarter team. We're up against a very formidable opponent and the game is nearly over. We're all really on the *same* team. Synthesis is needed.

Republicans need to cast off their "Democrat Light" costumes, get *serious* about Freedom, and crave something more substantial than Rush Limbaugh's Clinton-bashing.

Libertarians need to get their heads out of the Randroid clouds and *do* something beyond intellectual dreaming. Let's face it--we *won't* be hosting the Inaugural Ball in 2001.

The **Patriot Movement** needs to quickly dump its more outrageous dogma/theories. Although the Rockefellers indeed wield huge and pernicious influence, they likely don't push buttons on some World Control Panel. Patriots should also swap its endless, fruitless legal study for *workable* ideas--Title 42 lawsuits are not, let's face it, the Patriot "cross" to the federal Dracula. (Always change a losing game.) How about *some...realism?*

Conservative Christians need to eradicate any hint of impropriety or hypocrisy, and quit harping on the truly punier issues of morality. The point of government is *not* to make a heaven on Earth, *but to avoid making a hell*. Libertarians wouldn't dare interfere with anybody's church attendance, so why not let them buy a six-pack on Sunday afternoons? A bit of reasonableness is in order here.

Everyone needs to examine their luxurious constitutional "parchment worship" and tone down the undeserved idolatry. Let's begin the long overdue analysis of our current predicament. Let's get suited up. See you on the field.

NOTES ON READING THIS BOOK

When I refer to a specific Article/Section/Clause of the Constitution (e.g., Art. I, Sec. 8, Cl. 17), I abbreviate (I:8:17).

I don't care for footnotes. Most folks don't bother reading them, and they're inconveniently placed for those who do. Therefore, I put quotations and my parenthetical asides right in the textual stream. I want them read, and easily so. Also, I've developed a clear quotation format:

*Quotations are in this form. Any original emphasis is underlined. **Any added emphasis of mine is in boldface.** When I supplement a quote, my nonitalicized comments are within () or []--(like this, for example).*

Hologram of Liberty has a lot of quotations because I want the political debate retold by the historical personalities themselves. I want you to hear the federalists' arrogance and to see through their specious reasoning. I want you to feel the *anti-federalists'* alarm and frustration and to appreciate their discernment and sincerity. Also, I want my unorthodox point illustrated (if not proved outright) through orthodox works.

Let me hear your ideas, as I'll be about tapped out after my upcoming novel. I hope the national situation doesn't regress until I must at last become a blazing pamphleteer...

\$ 1

POLITICAL MAGIC

*That investigation into the nature and construction of the new constitution, which the conspirators have so long and zealously struggled against, has,...so far taken place as to ascertain the enormity of their criminality. That system which was pompously displayed as the perfection of government, **proves upon examination to be the most odious system of tyranny that was ever projected, a many headed hydra of despotism, whose complicated and various evils would be infinitely more oppressive and afflictive than the scourge of any tyrant:...***

*No wonder then that such a discovery should excite uneasy apprehensions in the minds of the conspirators, for such an attempt against the public liberties is unprecedented in history, **it is a crime of the blackest dye**, as it strikes at the happiness of millions and the dignity of human nature, as it was intended to deprive [Americans] of the choicest blessing of life and the oppressed of all nations of an asylum [of liberty].*

These are strong words. The words of a prophet usually are. Samuel Bryan as "Centinel" published this in January 1788, the twelfth of eighteen essays. Through his forecasted "*distraction of misery*" Americans did not understand their government to be that "*many headed hydra of despotism.*"

Whomever sets the rules of the game determines the winner. As formed, the Federal Government is like quicksilver in your hand--there's no way to really clench it. The feds have several constitutional escape routes which have by now proven more than adequate to defeat any

conceivable restraint. The people and their States were checkmated back in 1789. The "game" was, constitutionally speaking, decided at that time. It's just taken 208 years of board moves for the checkmate to painfully materialize.

Years ago, I visited a museum for its dinosaur exhibit. (This was long before *Jurassic Park*.) It featured an interactive ecological game in which you programmed the global proportion of herbivores and carnivores. The goal was to calculate the proportion for a self-sustaining system. Too many carnivore dinos would wipe out the herbivores, leaving T-Rex *et al* to starve. Too many herbivores would starve themselves out, and then the T-Rexes. Your figures were projected over time; any imbalance would be revealed. The greater the imbalance, the faster the collapse.

While I got the correct balance after a few tries, I kept playing the game. I wanted to see how long the collapse could take with only the *slightest* imbalance. What I learned, a decade before I thought to write *Hologram of Liberty*, was that what *seemed* to be proportional would not be realized as *unbalanced* until many years had passed. Any slightly detrimental weight given to either element would not reveal itself until the game had played out in a very distant future.

The point being: an appreciable margin of constitutional balance was given to the feds, assuring their eventual supremacy. While many viewed the state-vs.-federal proportioning of constitutional power as balanced and thus self-sustaining, most people did not. These "anti-federalists" extrapolated the numbers to the unhappy conclusion that the Federal Government would, one sad day, come out on top. And that's exactly what happened.

UNCLE SAM IS *REALLY* HOUDINI

While it will take the rest of this book to build my case, let me offer one last analogy. The Constitution was to be the confining straightjacket of the new Federal Government. Although the government was to have use of its legs for international purposes (and some domestic ones), its *torso* was to be bound up, restricted from hobbling the States.

With me so far? O.K. A straightjacket will reliably constrain that which it was *designed* to constrain--a *normal* physique. *Change the body* and escape is now not only possible, but simply a matter of time and effort. All the body needs is an *inch* of new movement (uncontemplated by the designers) and it can eventually wriggle out. Creating this new, free movement is the first, and most difficult, goal of the escape artist. If you've ever watched an old film of Houdini extricating himself from a straightjacket, you'll know where I'm going with this--the shoulder.

The shoulder, *normally*, would not have any more free movement than the arm. The shoulder, however, is the *key* because it can transform itself *into* the key. While the arm cannot shorten, the shoulder can *dislocate*. **The jacket wasn't designed to hold a dislocated shoulder.** Once dislocated, the shoulder has won the battle. Escape is then a foregone conclusion, even though much seemingly fruitless wriggling reassures the audience of eternal restraint.

It's the same body, whose parts understandably have a *common interest*. The executive is the hand, Congress the arm, and the Supreme Court the shoulder. **Yes, the branches of government are distinct, but they are part of the same federal torso with a naturally unified goal--to be free.** The "check and balance" doctrine *now* seems properly hollow. It makes no sense that the shoulder and arm will jointly prevent the hand's grope.

This crucial point was smoothly glossed over by Madison, yet tacitly admitted nonetheless, "*The accumulation of all powers, Legislative, Executive, and Judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective,...* [is] **the very definition of tyranny.**" There is no real separation of powers--they're all "*in the same hands*" like three bully brothers each promising to restrain the others from beating you up.

The *shoulder* is the key. Only *it* can dislocate and foil the straightjacket's design. Only the Supreme Court can pop out of socket, as it were. The shoulder's extra room to maneuver will in time extend to the arm and hand. Once the arm is out

of its sleeve and unbuckling the straightjacket, the torso's victory is plain for all to see. What the audience *didn't* see, and what they wouldn't have likely *understood* had they seen it, is that escape was inevitable once the shoulder had invisibly dislocated itself.

By now, many (if not most) Americans would agree that the Federal Government is busily unbuckling its constitutional straightjacket. What they cannot describe is: **O** How the government managed to get *out*, and **O** How to put the government back *in* its straightjacket and *keep* it there. While ideas on **f** vary widely, the general consensus of **O** is that somehow the government *cheated*. By "cheated," the Congress and the President have overstepped their bounds. The keener public understand that the *Supreme Court's* "cheating" has been most detrimental to Liberty.

However, the straightjacket designers had foreseen the shoulder's guaranteed dislocation, *yet did nothing to prevent it*. Why not? **For simple filial reasons:** the intended prisoner was actually the *son* of the straightjacket designers! (If coerced to constrain *my* son, I'd leave him *some* way out.)

Remember, it *wasn't* the people or the States which agitated for the 1787 Convention—it was a distinct group of men (later called "federalists") who very much desired a *strong* national government. While there was widespread support for an *alteration* of the existing straightjacket (the Articles of Confederation) to marginally free the prisoner, only the federalists had the firm plan of *changing* the garment entirely with an utterly new design of their own.

To them, an "*energetic*" national government was good and necessary, and while I heartily disagree with their *conclusions*, I *do* believe that their *motives* were generally sincere. I understand a father's love and devotion to his son, and therefore the Founding Lawyers' duty to their newborn national government.

Anyway, back to the straightjacket extrication. Here's an overview of the next 150 or so pages:

-
- 1790 New gov't in its constitutional "straightjacket."
 - 1791 Early positioning by Hamilton's financial measures and Bank of the U.S.
 - 1794 Violent wriggling in suppressing the Whiskey Rebellion in western Pennsylvania.
 - 1798 *Alien and Sedition Acts*--first concerted effort by shoulder, arm and hand. Successful. Shoulder rests prior the grand effort of 1803.
 - 1803 **Marbury v. Madison**--shoulder dislocates. The Supreme Court rules that *they alone* may decide what is or isn't constitutional.
 - 1819 **McCulloch v. Maryland**--shoulder shifts. Supreme Court rules that the Congress have "*implied powers*" other than their strictly enumerated constitutional authority.
 - 1824 **Gibbons v. Odgen**--shoulder maneuvering. Supreme Court strikes down N.Y. law by stretching "*commerce*" to mean "*intercourse*" (not merely movement of goods)--basis for later federal regulation of nearly everything.
 - 1876 **Munn v. Illinois**--Supreme Court rules that "*when private property is devoted to public use, it is subject to public regulation.*"
 - upto **Arm sliding out of sleeve.** Congress taking
 - 1930's full advantage of shoulder dislocation by the expanded "*necessary and proper*" legislation.
 - 1930's **Arm free of sleeve.** New Deal legislation goes through on back of Supreme Court reversals of Tenth Amendment doctrine.
 - upto **Arm out--hand working on buckle.**
 - 1980's As the congressional arm is totally free, the executive hand can finally be put to work.
 - 1990's **Buckle nearly off; audience now alarmed.** *Exclusionary Rule Reform Act* (H.R.666) passes by all but 7 of new Republicans.
 - 1996 **Buckle undone. Jacket now sliding off.** "Anti-Terrorism" bill passes. Audience now in near panic; running for cover.
 - 1997... **Jacket off, or prisoner restrained???**
 - 2000... **A New Dark Age, or a New Liberty???**

SOME SAW WHAT WAS COMING

It is freedom, gentlemen. It is freedom and not a choice of the forms of servitude for which we contend. We entertain no jealousy of the present Congress, but who knows but in some future corrupt times there may be a Congress which may form a design upon the liberties of the people. And will it be difficult to execute such a design when they have the absolute command of the navy, the army, and the purse?

-- John Adams

The new garment purposely skewed insurmountable advantages to the Federal Government in very subtle ways. It is a credit to the intelligence and foresight of the 1780's "anti-federalists" that most of these crafty advantages were spotted. Having discerned the many acorns of federal tyranny, they correctly envisioned the future oaks of oppression under which we now suffer. Talk of "oaks" back in 1787-8, however, was roundly scorned by smooth arguing federalists.

Such a tyrannical future where property rights would be ignored, where a massive standing army would lurk unchallengeable, where Congressmen would hold office for life, where ruinous treaties would be commonplace, where Presidential powers would make Nero jealous, where gold and silver would vanish from circulation to be replaced by the worthless "notes" of a private banking conglomeration, where the States would be reduced to mere administrative departments of the feds, and where the grasp of taxation would actually reach into the common laborer's paycheck--all of this was too fantastic to be even theoretically contemplated during the ratification debates.

For example, read John Marshall's 10 June 1788 reply to Patrick Henry's concerns at the N.Y. ratifying convention:

[According to Patrick Henry]...the *officers of the* [proposed federal] *government will be screened from merited punishment by the federal judiciary. The federal sheriff, says he, will go into a poor man's house and beat him, or abuse his family, and the federal courts will protect him. Does any gentleman believe this? Is it necessary that the officers will commit a trespass on the property or persons of those with*

whom they are to transact business? (Notice the nascent Orwellianism of describing federal regulatory powers as transacting "business." The ultimate embodiment of this linguistic perversion is the Internal Revenue "Service." KWR)
Will such great insults on the people...be allowable?
Were a law made to authorize them, it would be void.
(Yes, void in theory, but not actually void until the Supreme Court says it's void. KWR)

As you can see, the federalists easily dismissed the urgent warning of "oaks" as grotesque delusions.

"Does any gentleman believe this?" **Ask Randy Weaver about the federal sheriffs.** His son was shot in the *back* by a U.S. Marshal. His wife was shot, *while holding her baby*, in the *face* with a .308 by FBI sniper Lon Horiuchi.

"Does any gentleman believe this?" **Ask what few Branch Davidians who survived about the federal sheriffs.** National Guard helicopters indiscriminately poured machine-gun fire through the roof of a homestead church on dozens of women and children. The 17 children who lived through *that* were assaulted 51 days later by *tanks* firing CS gas cannon shells (when the FBI *knew* that the children had no gas masks and that CS gas deployed in closed areas was lethal to children). P.J. O'Rourke summed up the Waco murders well in a 1993 speech to the Cato Institute:

*And the Clinton administration launched an attack on people in Waco, Texas, because those people were religious nuts with guns. **Hell, this country was founded by religious nuts with guns.** Who does Bill Clinton think stepped ashore on Plymouth Rock? Peace Corps volunteers? Or maybe the people in Texas were attacked because of child abuse. But, if child abuse was the issue, why didn't Janet Reno teargas Woody Allen?*

"Does any gentleman believe this?" **Ask Donald Scott about the federal sheriffs.** Well, you can't, because they killed him on 2 October 1992. You see, the National Park Service badly wanted his 200 acre Malibu ranch for its own, so the feds (one of whom was carrying the property's appraisal) conducted a bogus drug raid in order to seize his property under the fascist "civil forfeiture" doctrine. Some 31 agents from 8

different departments converged on the Scott's peaceable home. Hearing his wife's terrified screams at the men in black ninja suits who burst through their front door, Mr. Scott came to her rescue, revolver in hand. Ordered to drop his gun, he was shot while doing so. (No drugs were found, predictably.) Later, Mrs. Scott's home was burned to the ground, most likely from arson. She now lives in a travel trailer. Her wrongful death lawsuit has so far been stymied.

The attack on individual rights has reached a point where a citizen has no right to use his own land if a government inspector discovers a wet area on it, no right to the money in his bank account if an IRS agent decides he might have dodged taxes, and no right to the cash in his wallet if a DEA dog sniffs at his pants. A man's home is his castle, except if a politician covets the land his house is built on, or if his house is more than fifty years old, or if he has too many relatives living with him, or if he has old cars parked in his driveway, or if he wants to add a porch or a deck.

-- James Bovard; *Lost Rights*, p.1

We have "*federal sheriffs*" beyond imagination. There are 46 civilian agencies of the Federal Government whose agents carry guns and have the power to make arrests. These "*great insults on the people*" have been allowed because there is little we can do about them, short of armed rebellion. And, by the way, no laws authorizing "civil forfeiture" or other related measures of tyranny have been struck down by the federal courts. AB Patrick Henry so wisely observed, "*You cannot force them to receive their punishment:... Will the oppressor let go the oppressed? Was there ever an instance?*"

None of the federal sheriffs have been brought to justice. "*The federal courts will protect him...*" The Congressional hearings on Ruby Ridge and Waco were a hollow farce. Justice has been denied at every turn.

The 60 Minutes interview of Janet "For-The-Kids" Reno was a joke. She recently told a group of feds, "*You are part of a government that has given its people more freedom...than any other government in the history of the world.*" (Wow!)

Coercion has become more refined and more pervasive in recent decades. We rarely see scenes like the Los Angeles po-

lice beating Rodney King or IRS agents dragging Amish tax resisters out of their meager homes. But just because few people resist government agents does not mean that the State is violating fewer people's rights. The level of coercion imposed by government agencies is less evident today primarily because the vast majority of citizens surrender to government demands before the government resorts to force. Economist J.A. Schumpeter wrote: "Power wins, not by being used, but by being there." The lack of an armed uprising is no proof of a lack of [governmental] aggression.

-- James Bovard; *Lost Rights*, p.5

Patrick Henry didn't have to wait until the 1990's to be proven right. He was justified in just six years when President Washington (suppressing the 1794 Whiskey Rebellion, a mere *tax* revolt) descended on western Pennsylvania with an army of 13,000--*nearly* as large as that which had captured Cornwallis. Next came the 1798 *Alien and Sedition Acts* which made it a crime to even *criticize* federal officials! The acorns of tyranny began to sprout immediately.

During the ratification debates, sly, theoretical assuagements from the federalists were the rule: "*Tyranny could not possibly happen with the Constitution's checks and balances!*" **Folks, there are no real "checks and balances" amongst the three branches of government. No branch has any real motive in restraining the others.** Fed "blood" is thicker than the "water" of the people or of the states. Government is only *appetite*. It is *never* satiated; it always wants *more*. Its interest is far different from the *people's* interest. Can anything be more plain?

The Framers well knew that growth in their beloved Federal Government could only be achieved *gradually* over time in leapfrogging fashion, branch over branch through political sleight-of-hand. The Framers created a complicated system to misdirect the people from seeing the growth of the oak by focusing their attention on the puppet-show bark of elections. Or, while *seemingly* fruitless gyrations went on, the shoulder dislocated and helped the arm to help the hand.

Since the shoulder was the key, it was deliberately *underplayed* in the Constitution and in the ratification

debates. Article III regarding the federal judiciary is mere *paragraphs* compared to the several *pages* of tedious detail of Articles I and II for Congress and the President. For many years the Supreme Court went practically unnoticed in its cramped, cold, basement room of the Capitol. **Unnoticed and uncontrolled. That was exactly the idea.**

In *The Federalist* #78, Hamilton deadpanned that the judicial branch was the "*weakest*" and "*the least dangerous*" because it had neither force nor will but "*merely judgment.*" (Well, a wheelchair cripple is not dangerous if he doesn't have a pack of dogs for his executive department. All his dogs need to act is his mere '*judgment.*' This explains how nine morally autistic Justices can rule an entire nation.) As Jefferson was to remark many years later:

It is not enough that honest men are appointed judges. All know the influence of interest on the mind of man, and how unconsciously his judgment is warped by that influence. To this bias add that of the esprit de corps, of their peculiar maxim and creed that "it is the office of a good judge to enlarge his jurisdiction," and the absence of responsibility; and how can we expect impartial decision between the general government, of which they are themselves so eminent a part, and an individual state, from which they have nothing to hope or fear?

We have seen, too, that, ... they are In the habit of going out of the question before them to throw an anchor ahead and grapple further hold for future advances of power. They are, then, in fact, the corps of sappers and miners steadily working to undermine the independent rights of the states, and to consolidate all power in the hands of that government in which they have so important a freehold estate... I repeat that I do not charge the judges with willful and ill-intentioned error; but honest error must be arrested where its toleration leads to public ruin. As, for the safety of society, we commit honest maniacs to bedlam, so judges should be withdrawn from their bench whose erroneous biases are leading us to dissolution. It may, Indeed, Injure them in fame or fortune; but it saves the Republic, which is the first and supreme law.

-- Bergh 1:120

Any purported control of the Supreme Court by the people is so tenuous as to be worthless: Because the people elect state legislators, who appoint electoral college delegates, who choose the President, who appoints the Justices--the Supreme Court is responsive to the *people*? *Hah!* The link is so oblique as to be barely *theoretically* causal--a *four-ball* combo shot in pool.

No other country has given its courts such extraordinary power. Not Britain, where an act of Parliament binds the courts. Not India, where there is a written constitution and a Supreme Court but where constitutional rights can be suspended by the government's declaration of an emergency. Not even West Germany or Ireland, where the power of judicial review is established but exercised on a narrower scale.

The President is elected. The Congress is elected. State legislators and Governors are elected. Supreme Court Justices are not elected; they are appointed for life. So are other federal judges. Yet we give unelected Justices and judges a power--called judicial review--under which they may nullify some acts of an elected President and the elected representatives of the people assembled in Congress or the legislatures of the States. In exercising the power of judicial review the Court answers, case by case, the great questions left (purposely) open by the Framers concerning both their ingenious plan of government and the guarantees (Ha!) of individual liberty.

—Archibald Cox; *The Court and the Constitution* (1987), p. 45

If there is indeed *true* hope for Freedom--that the Constitution is the competent straightjacket of its *Federalist* ad copy--then I will cheerfully don the repute of a crank. I'd like to be refuted from a true desire to be *wrong* about all this. **Somebody *please* show me definitive evidence disproving my contention that:**

○ Federal expansion and intrusion is subject to *no* real, practical, enforceable constitutional limits, and

8 The circumstantial, historical evidence clearly supports the Constitution being conceived, planned, debated, ratified and executed *with the goal* of relentless, unstoppable federal expansion at the expense of the States, the people, and freedom in general.

It should bear notice that my research did *not* rely upon "Patriot" resources, but was drawn from the works of utterly "orthodox" historians, encyclopedists and biographers. So should any attempted refutation.

But the Constitution was inspired by God!

Those who *believe* that will be very surprised to learn that the Federal Convention was *not* opened with prayer in May 1787. On 28 June Benjamin Franklin suggested that the "*small progress*" over the previous five weeks was directly attributable to such and moved that remaining sessions open with daily prayer:

In the beginning of the contest with Britain, when we were sensible of danger, we had daily prayers in this room for the divine protection. Our prayers, Sir, were heard--and they were graciously answered...

...[T]he longer I live, the more convincing proofs I see of this truth, that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? We have been assured, Sir, in the sacred writings that "except the Lord build the house, they labor in vain that build it." I firmly believe this; and I also believe that, without His concurring aid, we shall succeed in this political building no better than the builders of Babel...

-- *The Real Benjamin Franklin*, pp. 40-1, 258-9

Hamilton all but panicked; calling in outside clergy would lead the public to suspect "*embarrassments and dissention within the Convention.*" (Later, a revealing story circulated that Hamilton had opposed prayer on the grounds the Convention was not in need of "*foreign aid.*") Williamson curtly observed that there were no funds for a clergyman. No action was taken on Franklin's proposal, who noted, "*The Convention, except for three or four persons (out of 55!), thought prayers unnecessary.*" **The Convention was never led in daily prayer.** The only real divine intervention *I* can see is that, given the nationalist proclivities of its authors, the Constitution didn't turn out even *more* facilitative to Big Government.

But the Founders were free-market guys!

Uh, no, they *weren't*. They *had* a national atmosphere of *laissez-faire* under the Articles of Confederation--never was there a weaker central government:

...[T]he great fault of the existing Confederacy is its inactivity. It has never been a complaint against Congress that they have governed overmuch. The complaint has been that they governed too little. To remedy this (supposed) defect, we were sent here.

-- James Wilson, to the Philadelphia Convention

The Founding Lawyers had little or no doctrinal commitment to an unregulated free-market. What they supported, and what they created, was a mixed economy.

The state was the thing....It was an affair of groups and interests whose concerns must be promoted though its policies and whose aspirations must be trimmed to the requirements of "the general welfare." Hence, no sharp line was to be ***drawn between the political and economic order.*** The state had the dominant role in the matters of commerce, and a political economy of mercantilistic economics of principles.

-- Hamilton and Adair; *The Power To Govern* (1937)

Their Government purposely gave the merchant and financial classes clear leverage to improve their economic status. In the 1780's this was regarded uncontroversially pragmatic.

"Sacred cows make the best hamburgers."

Dozens of attempts have been made over the years to correct the popular impression that the Founding Fathers were above politics. All have failed. ...[For example,] Mormon leaders teach that the Constitution is a divinely inspired document. Any hint that it was the work of mere men is cause for controversy. If you want a real argument, just go ahead and call the drafters "politicians."

-- Richard Shenkman; *Legends, Lies & Cherished Myths*

Every society honors its live conformists and its dead trouble-makers.

-- Mignon McLaughlin

A truth's Initial commotion is directly proportional to how deeply the lie was believed. It wasn't the world being round that agitated people, but that the world wasn't flat. When a well-packaged web of lies has been sold gradually to the masses over generations, ***the truth will seem utterly preposterous and its speaker a raving lunatic.***

-- Dresden James

Support your local heretic, for one day he is sure to be right.

-- Boston T. Party

The *Federalist* papers and post-ratification propaganda have successfully placed the Constitution beyond the range of critical inquiry. It is America's #1 sacred cow. Within our civic religion, we may haggle over the drapery of political personalities, but it is utterly *heretical* to question the constitutional edifice itself. When Beard's 1913 *An Economic Interpretation of the Constitution* was published, the *Ohio Star* headlined: "SCAVENGERS, HYENA-LIKE, DESECRATE THE GRAVES OF THE DEAD PATRIOTS WE REVERE." President Taft denounced the book before over a thousand prominent lawyers and politicians at the Waldorf-Astoria. Beard, hounded out of his Columbia professorship by 1917, had might as well gone to Mecca and called Mohammed the devil.

Our parchment worship has blinded us to the provable history of the Constitution being a lukewarm servant of both freedom *and* tyranny. Though our oppressors have long understood this, we're only now just beginning to wrinkle our brows in suspicion. **Folks, we're living under the Constitution today.** Sincere clarions to "*go back to the Constitution*" are **unavailing--we're already there.**

The Constitution has either authorized such a government as we have had, or has been powerless to prevent it.

-- Lysander Spooner; *No Treason* (1870)

You have plenty of rights in this country, provided you don't get caught exercising them.

-- Terry Mitchell; Executive Editor, *The Revolutionary Toker*

American political thinking suffers from a romantic tendency to appraise government by lofty ideals rather than by banal

and often grim realities; a tendency to judge politicians by their rhetoric rather than by their day-to-day finagling and petty mendacity; and a tendency to view the expansion of government power by its promises rather than by its results.

-- James Bovard; *Lost Rights*, p.5

We must now obey *thirty times* as many laws as our great-grandfathers did in 1900. The Federal Government takes a *third* of our lives, regulates antacid to xylophones-- **and it's *all constitutional!*** Don't blame the "interpretive" Justices. Don't blame the profligate Congress. Don't blame the imperial President. **They're all legally enjoying their full constitutional latitudes, and I'll prove it.** Ignore the *Federalist Papers* "ad brochure" and look at what they *did*, not what they said. Focus your ire on the *rules of the game*--not on the transitory board pieces.

Such focus, by the way, is *perilous*. Introducing the 1973 reprint of *No Treason*, James J. Martin wrote:

Since late Neolithic times, men in their political capacity have lived almost exclusively by myths. And these political myths have continued to evolve, proliferate, and grow more complex and intricate, [with] a steady replacement of one by another, over the centuries. ...[These myths] attempt to examine the origins of the State with little or no attention to its historic record, and then try to justify and fortify it in the face of criticism or objection...

Vasilii Klyuchevski, the giant of historical scholarship in the last century of Czarist Russia, put it best: ***"The State swells up; the people diminish."*** ***Part of the reason for this [in America] has been the much more opaque and intangible nature of the adversary.*** ... The tying of political tenure to astronomy [of regular elections] instead of dynasty has removed the possibility of a long-enduring personal symbol [of monarchy] from the scene. And a massive obstacle has been created as a result of the homogenization growing out of mass voting, mass taxpaying, mass gun-bearing, and mass dispersal of the tidbits bestowed by the State: ***a vast, gray, shapeless enterprise (of bureaucracy) has come into being, with which it has been difficult to come to grips, as in the manner of classical conflicts with the State.***

...The American genius has been concentrated in perfecting vague and generalized secular verbiage; elusive, imprecise terminology which often sets the line for seemingly interminable battlegrounds of conflicting interpretation. Expressions such as "general welfare," "public good," "social contract," "general will," and many others, come to mind.

Of course, the crowning achievement in the American experience was the production of the Constitution, the ultimate verbal bastion on which is perched the American State. Constitution-worship is our most extended public political ritual, frequently supervised as often by mountebanks as by the sincere. ...**For though we have had over a century of native critics and opponents of our State,...the Constitution has largely been exempted or neglected in the unfolding of this critical tradition....**

Consequently, in view of the evanescent nature of power tenure in this country, the frequent unhorsing of the holders and exercisers of State power is looked upon with equanimity and not considered a threat in any way to the State. **It is the assault upon the abstract and verbal underpinnings of this Institution** (the "rules of the game," remember?) **which draws blood, so to speak.** If one can consider all the participants in the struggle to control and use the State as those engaged in a game..., then those who seek to destroy the abstract-verbal justification for such "play" are endangering the future course of all the players by riddling the rule books, which describes how such play is to be conducted while giving it a *raison d'être* besides. **Those who attack the rationale of the game, and not the players, are its most formidable adversaries.**

It is in light of this that those who have the temerity to collide head-on with the Constitution and challenge its validity in toto stand out in such sharp outline and radiate a quality of uniqueness in the American anti-State library.

Because I am attacking the "*rationale of the game*," expect some very poor things to be said of me. (My use of the pseudonym "Boston T. Party" has *already* been occasionally criticized for some alleged sneakiness, when all I wanted to do was evoke a fun, patriotic flavor while giving myself a bit of privacy.) I will not be surprised to bear particularly vicious

assaults on my reputation from those thought to be my colleagues. Folks, not only is American society polarizing, but so is the Freedom Movement. *Hologram of Liberty* cannot help but stir things up. **Read it for yourself. That's all I ask.** I don't expect to single-handedly change your thinking, but perhaps you'll conclude that I have a valid, researched point.

Finally, let nobody utter that "*Boston doesn't believe in America!*" I believe in the *putative ideals* of the Constitution (however *weakly* embodied on paper) strongly enough to stay here and help rectify our dilemma with *Hologram of Liberty* when I *could* be writing other books, or travelling abroad.

One *indirectly* comforting thing about *Hologram* is that, given its unpleasant, controversial conclusions, I will happily escape the vulture's nest of flagrant imitators and brash plagiarists who so freely looted my *Good-Bye April 15th!*.

"Constitution for the Newstates of America"

The Constitution has either authorized or permitted our current federal oppression. Let us no longer rest false hopes in that grand hologram of liberty. Let's face it: we'll never have *real* freedom under the current rules of the game.

As weakly as the Constitution serves us through a mere holographic *representation* of Liberty, there is a lot of good material there. We must pick off the meat and throw the bone away *before* the Constitution is replaced entirely with the new rules of *another* worse game (as in 1787).

Those new rules have already been written in a document called the "*Constitution for the Newstates of America.*" I've read it. It is very odd and very scary. The 50 states become 10 "Newstates." **We're in big trouble.** There are three *new* branches of government: a **regulatory** branch to control our daily lives and commerce; a **planning** branch to centrally puppeteer the national economy and industrial policy; and an **electoral** branch to regulate all elections.

It provides for a president, two corporation-style vice presidents, an appointed senate, a house of unusually elected representatives, an appointed judiciary, and a new spying

Thought Police headed by an "*intendant*." The president virtually controls the government through his appointments.

There are no rights, only '*privileges*' and '*responsibilities*.' There is *no* trial by jury. No "*just compensation*"--just "*compensation*." No ownership of weapons (which will be construed to include BB guns, knives, clubs, etc.). No due process. The practice of religion is merely '*privileged*.' Not surprisingly, **the word '*emergency*' appears 134 times--without once being defined.**

Are you *awake* now?

Folks, we are very near the end of Liberty--what little we have left. The government is just about to announce "*Checkmate!*" America will soon be awakened from her luxurious slumber. Wake up, get dressed and get to work *before* that day. Let's focus on the few avenues we have left to recapture the government and hold it while we design a better straightjacket. **Think, focus, unite, and act. Quickly.**

When the people give way, their deceivers, betrayers, and destroyers press upon them so fast, that there is no resisting afterwards. The nature of the encroachment upon the American constitution is such, as to grow every day more and more encroaching. Like a cancer, it eats faster and faster every hour. The revenue creates pensioners, and the pensioners urge for more revenue. The people grow less steady, spirited, and virtuous, the seekers more numerous and more corrupt, and every day increases the circles of their dependents and expectants, until virtue, integrity, public spirit, simplicity, and frugality, become the objects of ridicule and scorn, and vanity, luxury, foppery, selfishness, meanness, and downright venality swallow up the whole society. (Does this situation look familiar? KWR)

-- John Adams

Let us *finally* understand the *game*, and play it better and with more honor--while *there is time*.

Anyway, here follows our dirtiest political secret.

• 2

"WHAT HAVE YE WROUGHT?"

*The Constitution was the settlement of a revolution. What was at stake for Hamilton, Livingston, and their opponents, was more than speculative windfalls in securities; it was the question, what kind of society would emerge when the dust had settled, **and on which class the political center of gravity would come to rest.***

-- Staughton Lynd; *Class Conflict, Slavery and the United States Constitution* (1967)

The human race divides itself politically into those who want people to be controlled and those who have no such desire.

-- Robert A. Heinlein; *The Notebooks of Lazarus Long*

*It may be true...that "you can't fool all the people all the time," **but you can fool enough of them to rule a large country.***

-- Will and Ariel Durant

Opened on 25 May 1787 to suggest mere revisions to the Articles of Confederation, the Federal Convention approved the proposed constitution on 17 September and finally adjourned from behind their closed doors of strict secrecy. A local woman inquired of Benjamin Franklin the now famous question, "What have ye wrought?" Meaning, "You guys have been meeting in this building for fifteen weeks, working on some new government, but you won't clue us in. **Republic or**

monarchy--what have ye wrought?" Franklin's answer, "A Republic, *if you can keep it.*" was an outright half-truth.

The Constitution, sadly, did not create a "keepable" Republic. Apparently, it was never *meant* to create one.

If analyzed in contrast to history since 1787, it appears that the Constitution was *purposely* laden with several components *designed to nearly guarantee the gradual expansion of the Federal Government--at* the expense of the States and the people. Hear me out and judge for yourself. First, let's capsule American history leading up to and through the Constitution while also examining the motives of its Framers.

1770's to 1787

To refresh everyone's recollection, here is a brief synopsis of the pre-Constitution events. For efficiency's sake, I'll paraphrase pages 22-23 of *Our Ageless Constitution* (ISBN 0-937047-25-2) by W. David Steadman Associates.

Committee of Correspondence

On the brink of revolution, the colonists finally confronted Great Britain (which controlled all colonial governments except Connecticut and Rhode Island). Aware that revolutionary activity was treasonable and punishable by death, they found safety in numbers, forming a coalition of local governments called Committees of Correspondence that functioned much like political parties.

The first was organized in Boston by Samuel Adams in 1772, and by 1773 a covert network existed throughout America. Operating like governments in exile, they elected the First Continental Congress in 1774.

The First Continental Congress

On 5 September 1774 delegates from every colony except Georgia met in Philadelphia to develop a strategy in dealing with England. They were appointed or elected by local committees, colonial conventions or legislatures, and included the ablest men in America. The Congress adopted a Declaration of Rights, called for repeal of the tax laws they op-

posed, agreed to boycott English-made goods, and set up a committee to enforce the boycott.

The Second Continental Congress

Unmoved, Britain responded to colonial acts of defiance with more repressive measures. This Congress, horrified that Patriot blood had just been spilled on 19 April at Concord and Lexington when British went to disarm the local militias, convened in Philadelphia on 10 May 1775.

It was unique among the legislatures of history, for it had no authority to pass laws or enforce them, and means for raising revenue. This Congress nevertheless served as the official organ of government for the united colonies until March 1781, when the Articles of Confederation became effective. It was, therefore, our first national government.

This was the same Congress that drafted and proclaimed the Declaration of Independence a year later. State constitutions--our first experiment with independent government as free people--also sprang up at this time, leaving only the central government without a constitution.

1781-1787: The Articles of Confederation

On 12 June 1776 the Second Continental Congress appointed a committee consisting of one member from each colony to draft a new plan of government. Although the plan was approved by eleven states on 17 November 1777, followed by Delaware in 1779, the Articles of Confederation did not go into effect until the last state, Maryland, ratified in 1781.

The Articles were the first constitution of the U.S.A. They were drafted by John Dickinson, who would also serve as a delegate in the Convention of 1787. Created to meet an emergency, they were merely a treaty among sovereign powers--a confederacy of states that, according to Article III, had entered "*into a firm league offriendship with each other.*"

Few powers were delegated to this new central government, which was weak and, throughout much of its brief existence, often effective. A unicameral Congress was the sole organ of government, and both the executive and judicial

functions were carried out by legislative committees. Members were appointed and paid by the states, and each state had only one vote. Amendments could be added, but only with concurrence of every state. Lacking the sweeping powers to tax and regulate commerce, the Congress was limited to "expressly delegated" powers--to declare war, conduct foreign relations, request revenue and soldiers from the states, borrow and coin money, build a navy, settle disputes between the states, establish a postal system, regulate weights and measures, create courts for limited purposes, and appoint committees. (Here ends the paraphrasing.)

Why the Confederation lost support

*The British empire collapsed because it tried to meet common [British] needs by sacrificing [American] provincial rights. Congress reversed these priorities. **It protected local rights so absolutely that it never acquired adequate power to address local needs.***

-- John M. Murrin; 1787: *The Invention of American Federalism*, from *Essays on Liberty and Federalism* (1988)

The *putative* defect of the Confederation was that Congress depended on the good will of the States. Gee, how awful.

Had the States not waged pointless trade wars with one another and been more responsible with their internal currencies, most of the dissatisfaction with the Articles could have been avoided. Also, Congress should have been given at least concurrent power to tax imports, which was (for the entire Confederacy) fatefully resisted by New York in 1786.

Congress hadn't power to levy taxes on individuals, to regulate commerce, or to prohibit the States from coining money. Since "*The United States in Congress assembled*" could not act without unanimous agreement, the States often ignored Congress.

*It was not until after the termination of the late glorious contest which made...[America] an independent nation, that any defect was discovered in the present confederation. It **was** formed by some of the ablest patriots in America. It carried us successfully through the war; and the virtue and patriotism of the people, with their disposition to promote the common cause, supplied the want (lack) of power in Congress...*

It was [after the Peace Treaty of 1783] that the want of an efficient federal government was first complained of, and that the powers vested in Congress were found to be inadequate to the procuring of the benefits that should result from the union. The impost was granted by most of the states, but many refused the supplementary funds; the annual requisitions were set at naught by some of the states, while others complied with them by legislative acts, but were tardy in their payments, and Congress found themselves incapable of complying with their engagements, and supporting the federal government. It was found that our national character was sinking in the opinion of foreign nations. Congress could make treaties of commerce, but could not enforce [their] observance... We were suffering from the restrictions of foreign nations, who had shackled our commerce, while we were unable to retaliate:...

-- Dissenting Address of the Pennsylvania Convention
Minority, 18 December 1787

Congress got no respect. For those "Nationalists" who desired an "energetic" central government, such was intolerable:

*We have probably had too good an opinion of human nature in forming our confederation. Experience has taught us, that men will not adopt and carry into execution measures the best calculated (by the Nationalists, of course) for their own good, **without the intervention of a coercive power.***

*Many are of the opinion, that Congress have too frequently made use of the suppliant, humble tone of requisition in applications to the States, **when they had a right to assert their imperial dignity and command obedience.** ...If you tell the [State] legislatures they have...invaded the prerogatives of the confederacy, **they will laugh in your face.***

--George Washington to John Jay, 1 August 1786

Allow me to paraphrase: "*People refuse to accept what we say is best for them unless we can force them to submit. **E**ven though we have through Congress *de jure* power, we're ignored *de facto*. We're tired of placating these unruly States, only to be laughed in our face!*" The Articles of Confederation created a Congress which had to go begging to the States, hat in hand, and the control-mongers were champing at the bit. Why, in 1785, the Massachusetts Congressional delegates had *refused to even introduce* a resolution calling for a convention:

*"More power in Congress" has been the cry from all quarters, but especially of those whose views, not being confined to a government that will best promote the happiness of the people, are extended to one that will afford lucrative employments, civil and military. **Such a government is an aristocracy, which would require a standing army and a numerous train of pensioners and (bureaucrats) to prop and support its exalted administration.***

This sort of thing infuriated the Nationalists. Jay wrote to Washington, *"Private rage for property suppresses public considerations, and personal rather than national interests have become the great objects of attention. ...**virtue...can only be...exerted by...a strong government...**"* As Madison wrote to Washington in April 1787, *"**..the right of coercion should be expressly declared.** With the resources of Commerce in hand, the National administration might always find means of exerting it either by sea or land."* (Notice how they both argued to Washington the need of a new "vigorous" national government? And the first President would be...)

*The lawyers in charge of the Continental Congress were undeterred. In February, 1781 they submitted to the states an amendment vesting in Congress the power to levy a duty of five percent on imported goods. This and other similar amendments were rejected by the states. Under the Confederation, the federal government had no means of enforcing obedience to its laws because they operated upon states and not upon their inhabitants. **You cannot imprison a state if it breaks the law.** If an attempt is made to seize its goods, a state's militia can repel the action. The lawyers had a plan--they would make the national government operative upon individuals instead of states. If a person defied the law he could be imprisoned or have a levy placed upon his property until he conformed.*

-- Ralph Borszewski; *The Constitution That Never Was*

Great work behind the scenes was done to foment a panic over the overstated "crisis" at hand: Our "weak government" not only attracts invaders, but cannot effectively muster a viable defending army. The "weak Congress" cannot protect the nation from more powerful nations, or Indians--so, we direly need to strengthen Congress. (Create the "problem." Create

opposition to the "problem." Offer your "solution." This is classic Hegelian doctrine so well used by the Communists.)

Many folks were having none of it, and vigorously challenged the very existence of a "crisis." A year later, in his June 1788 warning against adopting the Constitution, Patrick Henry would orate:

The Confederation; this same despised Government, merits, in my opinion, the highest encomium: It carried us through a long and dangerous war: It rendered us victorious in that bloody conflict with a powerful nation: It has secured us a territory greater than any... Monarch possesses: And shall a Government which has been thus strong and vigorous, be accused of imbecility and abandoned for want of energy?

...great danger [allegedly] would ensue if the [Virginia] Convention rose without adopting...[the Constitution]: I ask, where is that danger? I see none.

Why then tell us of dangers to terrify us into an adoption of this new Government? And yet who knows the dangers that this new system may produce; they are out of the sight of the common people: They cannot foresee latent consequences: I dread the operation of it on the middling and lower class of people: It is for them I fear the adoption of this system. ...I see great jeopardy in this new Government. I see none from our present one...

...Public and private security are to be found here in the highest degree. Sir, it is the fortune of a free people, not to be intimidated by imaginary dangers. Fear is the passion of slaves.

A noted historian agreed that the Articles of Confederation were rather unfairly criticized:

*In retrospect, it may appear that the Americans lacked vision when they failed to establish a more tightly knit Union and to create a strong central government. But it must be remembered that they had just fought a war against centralized authority and, with limited communications and transportation facilities, they had good reason to believe that there could be no self-government except through local government. **Nor should the accomplishments of the government under the Articles of Confederation be overlooked.** It successfully brought the war to a conclusion; negotiated the Treaty of Paris of 1783, which gave the United*

States [of America] de jure status as a nation; established an enduring system for the development of western lands; and refined the practices of interstate cooperation that gave Americans further practical experience in handling national problems.

-- J.W. Peltason; *Understanding the Constitution*, 7th ed.

September 1786: The Annapolis convention

At Hamilton's urging, the New York Assembly asked Congress in 1782 to call a general convention of the states to revise the Articles. The Massachusetts Legislature seconded the request in 1785. Congress studied the proposal but was unable to reach any agreement. Then, Virginia and Maryland in 1785 worked out a plan to resolve conflicts between the two states over navigation and commercial regulations. This gave Madison the idea of calling a general meet-ing on commercial problems. In January 1786 the Virginia Assembly [called] for a meeting in Annapolis in September.

-- Ralph Mitchell; *CQ's Guide to the U.S. Constitution*, p.7

Attended by 12 delegates from only five states to discuss commerce regulations, this convention had grander ideas:

*[T]he idea of extending the powers [of convention delegates] to other objects than those of commerce,... was an improvement on the original plan, and will deserve to be incorporated into that of a future convention. ...[We] have been induced to think that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the (Confederate) Government, that to give [these commerce powers] efficacy,... may **require a correspondent adjustment of other parts of the federal system.***

-- Annapolis, 14 September 1786

From a mere trade conference came the plan to demolish the Confederation under the guise of an "*adjustment*."

Autumn 1786: Shay's Rebellion

After the Revolutionary War, Massachusetts (virtually controlled by the commercial class) raised taxes to pay its war debt. While 7 states resorted to paper currency issues in various degrees, Massachusetts debtor farmers had their cattle and land seized and were thrown into jails. All petitions for

relief were ignored and a flashfire rebellion resulted. Armed farmers prevented courts from opening and stopped seizures. Led by Daniel Shays (a Revolutionary War captain), 1,100 men attacked the Springfield courthouse and federal arsenal. Although they were easily defeated by artillery fire and dispersed, the politicians panicked and hysterical accounts prevailed. To them, it seemed the beginning of the end.

While the rebellion failed militarily, it caused a rout in the spring 1787 election. John Hancock defeated the inflexible Governor James Bowdoin, and three-fourths of the House members were replaced. Relief laws were enacted exempting clothing, household goods and trade tools from seizure, and a pauper's oath freed many imprisoned debtors. Taxes were significantly lowered. Further rebellions were unnecessary.

Similar, though lesser, resistance to debt and tax collection had also occurred in New Jersey, Maryland, Virginia, and South Carolina--however, Shay's Rebellion was (as the French say) *"the drop that overflowed the vase."* As Jefferson feared from Paris, a rather unjustified sense of alarm persuaded all States but R.I. to endorse the 1786 Annapolis call for another convention in May of 1787--in Philadelphia.

Most troublesome to the framers of the Constitution was the increasingly insurgent spirit evidenced among the people. Fearing the popular takeover of state governments, the wealthy class looked to a national government as a means of protecting their interests. Even in states where they were inclined to avoid strong federation, the rich, once faced with the threat of popular rule and realizing that a political alliance with conservatives from other states would be a safeguard if the radicals should capture the state government...gave up 'state rights' for 'nationalism' without hesitation.

-- Michael Parenti; *Democracy for the Few*, 5th ed.

Madison himself admitted years later that souring debtor-creditor...relations (which threatened the economic *status quo*) *"contributed more to that uneasiness which produced the Constitution and prepared the mind for a general reform"* than any inadequacies of the Confederation.

Or, it wasn't the "principle"--it was the *money*...

MAV--SEPTEMBER 1787: THE PHILADELPHIA CONVENTION

Our Convention has been too much impressed by the insurrection in Massachusetts; and in the spur of the moment they are setting up a kite to keep the hen yard in order.

--Thomas Jefferson; 13 November 1787 (Papers 12:335)

*...all now agreed that it would be advantageous to the union to enlarge the powers of Congress; that they should be enabled in the amplest manner to regulate commerce, and to lay and collect duties on the imports throughout the United States. With this view a convention was first proposed by Virginia, and finally recommended by Congress for the different states to appoint deputies to meet in convention, **"for the purposes of revising and amending (not replacing) the present articles of confederation, so as to make them adequate to the exigencies of the union."***

*The Continental convention...was composed of some men of excellent characters; **of others who were more remarkable for their ambition and cunning, than their patriotism; and of some who had been opponents to the Independence of the United States.** ...The convention sat upwards of four months. The doors were kept shut, and the members brought under the most solemn engagements of secrecy. Some of those who opposed their going so far beyond their powers, retired, hopeless, from the convention, others had the firmness to refuse the plan altogether, and many who did sign it, did it not as a system they wholly approved, but as the best that could be then obtained, and notwithstanding the time spent on this subject, it is agreed on all hands to be a work of haste and accommodation.*

***Whilst gilded chains were forging In the secret conclave,** the meaner instruments of despotism without, were busily employed in alarming the fears of the people with danger which did not exist, and exciting their hopes of greater advantages from the expected plan than even the best government on earth could produce...*

-- Dissenting Address of the Pennsylvania Convention
Minority, 18 December 1787

By alarming the people with fears of a hollow "crisis," delegates were sent to Philadelphia *"for the sole and express pur-*

pose of **revising** the *Articles of Confederation*"--not to scrap them entirely for an utter replacement. (Nationalist Madison had already outlined his replacement government to Washington in April.) But scrap them indeed was the hidden plan of the Nationalists, unbeknownst to other delegates, and the people at large who trusted the integrity of the convention.

...people were lulled into a false confidence, into an implicit reliance upon the wisdom and patriotism of the convention; and when ambition,...had succeeded to usher forth the new system of government with apparent unanimity of consent, the public delusion was complete.

-- "Centinel;" Essay XI, 23 January 1788

What the people also didn't understand was the sweeping nature of the scheme:

The American war is over, but this is far from being the case of the American Revolution. On the contrary, nothing but first act (the Revolutionary War) of the great drama is closed. It remains yet to establish and perfect our form of government, and to prepare the principles, morals and manners of our citizens for these forms of government after they are established and brought to perfection.

-- Conventioneer Benjamin Rush, in his pamphlet of 1787

Little wonder why the Convention operated under such *extraordinary* secrecy. Held on the second floor, windows shut, with sentries posted below, the delegates were sworn to strict silence. Not until 32 years later (a generation, you see) were the proceeding's *Journals* published. Madison's notes (thoroughly edited) weren't published until 53 years later, in 1840. Great propaganda measures were employed to conceal the Convention's true atmosphere of acrimonious dissent:

So great is the unanimity, we hear, that prevails in the Convention, upon all great federal subjects, that it has been proposed to call the room in which they assemble--Unanimity Hall. (Ha! KWR)

-- *Pennsylvania Packet and Daily Advertiser*, 19 July 1787;
from Farrand's *Records*, Vol. M, p. 60

The punctuality with which the members of the Convention assemble every day..., and the long time they spend in the deliberations of each day (sometimes 7 hours) are proofs,

among other things how much they are entitled to the universal confidence of the people of America. Such a body of enlightened and honest men perhaps never before met for political purposes in any country upon the face of the earth.
(Hip boots recommended--it's getting deep... KWA)

-- *ibid*, 23 August 1787; Vol. ill, p. 75

Electing the respected General Washington as Convention president, with the added presence of Benjamin Franklin, was responsible for much of the public's "*false confidence*." **Of the 55 delegates, 41 were politicians and 34 were lawyers.** Though of a generally high caliber, most delegates were cosmopolitan and personally anxious for a national government. (The American *countryside* was hardly represented.) According to Maryland delegate James McHenry, *at least 21 of the 55 delegates favored some form of monarchy.*

The "Virginia Plan" supporters (basically made up of those who orchestrated the convention) pretty much wanted to abolish the state governments. Hamilton mused that they "*might gradually dwindle into nothing*" while Madison supposed "*for a moment*" that the states should be "*reduced to corporations...*" Gouverneur Morris of Pennsylvania topped them both with '***This Country must be united. If persuasion does not unite, the sword will.***' Are you getting the idea? (Interestingly, the sword never became necessary as the States were first "*reduced to corporations*" which then *did* "*gradually dwindle into nothing.*")

It was a group *much* different from the 1770's--only eight had signed the Declaration of Independence, and six the Articles of Confederation. **The famous revolutionaries were not delegates:** Jefferson and Adams were in Europe, Patrick Henry had refused outright, while Thomas Paine, Sam Adams, and Christopher Gadsen were not even chosen.

Sent to "revise"--not to abolish

Although 55 delegates attended the Convention, 14 would later quit (generally because of the Convention's gross disregard for its States' mandate) and go home. Conveniently ignored by most of the remaining 41 delegates was the stubborn fact (virtually admitted by Madison in *Federalist* #40)

that Convention delegates had *not* been charged by their respective States to *scrap* the Articles of Confederation.

We ought to keep within its (the Confederation Congress mandate) limits, or we shall be charged by our constituents with usurpation. (The idea of a national government replacing the present confederation of states) never entered into the mind of any of them, and to the public mind we must accommodate themselves. We have had no power to go beyond the [confederation], and if we had, the people are not ripe for any other [form of government]. We must follow the people; the people will not follow us. (9 June)

If the confederacy is radically wrong, let us return to our states and obtain larger powers, not assume them ourselves. (15 June)

-- William Paterson, to the Convention, 9 and 15 June 1787

The [proposed] system is full of vices. We ought not to destroy the existing Confederation without the unanimous consent of the parties to it

-- Elbridge Gerry, to the Convention, 31 August 1787

*The conduct of the several legislatures, touching paper money, and tender laws, has prepared many honest men for changes in government, which otherwise they would not have thought of--when by the evils, on the one hand, and by the secret instigations of artful men, on the other, the minds of men were become sufficiently uneasy, a bold step was taken, which is usually followed by a revolution, or a civil war. A general convention for mere commercial purposes was moved for--the authors of this measure saw that the people's attention was turned solely to the amendment of the federal (Confederate) system; and that, **had the Idea of a total change been started, probably no state would have appointed members to the convention.** The idea of destroying, ultimately, the state government, and forming one consolidated system, **could not have been admitted--**a convention, therefore, merely for vesting in congress power to regulate trade was proposed....**--st// not a word was said about destroying the old constitution and making a new one--**The states still unsuspecting, and not aware that they were passing the Rubicon,...*

-- Letter from the Federal Farmer; 8 October 1787

What's more, the Articles required a *unanimous* vote of the States for alteration:

And the Articles of this Confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every state.

-- Article XIII, Section 1; *The Articles of Confederation* (1781)

This would be coarsely bypassed in Article VII of the new Constitution requiring only 9 of 13 States for ratification. According to an eminent authority, John W. Burgess, had Napoleon done such a thing, it would have been pronounced a *coup d'état*. Madison in *The Federalist* #43 later dismissed this outrageous illegality: "*To have required the unanimous ratification of the thirteen States would have subjected the essential interests of the whole to the caprice or corruption of a single member.*" (Gee, forget about the law!) Elbridge Gerry condemned "*the indecency and pernicious tendency of dissolving in so slight a manner, the solemn obligations of the articles of confederation.*"

This had all been planned for months. (Madison outlined the scheme to General Washington on 16 April.) His "Virginia Plan" of outright national government (instead of merely strengthening the Confederacy, as was the Convention's mandate) was hotly contested by the defenders of State sovereignty. William Paterson offered a fair compromise:

The New Jersey Plan

The New Jersey Plan,...proposed amending duties and to regulate trade. It would have provided also for a plural executive, to be chosen by Congress, and a federal judiciary. It proposed that treaties and acts of Congress "shall be the supreme law," and that the executive be authorized to "call forth the power of the Confederate States" to enforce the laws if necessary. But the plan would have left each state with an equal voice in Congress and most of the attributes of sovereignty. (This is the Swiss system. KWR)

-- Ralph Mitchell; *CQ's Guide to the U.S. Constitution*, p. 12

Fearing that the Convention might slip out of nationalist control and, *horrors*, return to the mandated revisions, the brilliant New York City attorney Alexander Hamilton (then only 32 years old) spoke on 18 June for five hours. He praised the British constitution as the world's best, pined for a Senate and Presidency elected-for-life, and declared that state governors should be appointed by Congress.

Hamilton's disillusion with the working of the Confederation and his fear of democracy, especially after Shay's Rebellion, had convinced him that it would be almost impossible to set up a stable republic in a country as large as the United States. As he informed the Convention, any society in which political power was vested in the hands of all the people would be continually torn by the class struggles of the rich and poor.

*Hamilton's remedy for this class war was the Hobbesian expedient of setting up a leviathan state to impose order upon the American People from above. Hamilton was sure that the only alternative to social anarchy **was the establishment of a consolidated government capable of maintaining itself independently of the people's will.***

-- Douglass Adair; *The Federalist Papers*, p.73

His afternoon long monologue cleverly made Madison's Virginia Plan seem utterly moderate by comparison. *AB* we shall discover, Hamilton later molded this "*leviathan state*" from the willing (though imperfect) clay of the Constitution.

Some interesting convention facts

A 17 July motion in favor of popular presidential election was *defeated*, 9-1. (Opponents argued that it would be as "*unnatural*" to refer the choice of the president to the people as it would be to "*refer a trial of colours to a blind man.*") The president was originally eligible, for *one term only*--but his infinite reeligibility and the electoral college were later approved. A second general convention to consider amendments from the States was proposed and unanimously defeated. (The States were to be told, "*Take it or leave it.*") Finally, the States very nearly did not get a chance to even *propose* amendments, until Gerry and G. Morris stepped in.

On 17 September 1787, 38 of the 41 delegates remaining signed "*In Witness whereof,*" not as delegates--but **as a unanimity of the States present**. This clever deception hid the

embarrassing fact that three delegates had refused to be part of the fraud and illegality. (As Lansing and Yates had left, Hamilton "generously" signed for New York *by himself*)

It bit of math is illuminating here: the States chose 74 delegates, 19 of whom refused to attend. Of the 55 who showed up in May, 14 left early, leaving 41. Of the 41 who stayed through September (Dickinson had Read sign for him *in absentia*), 3 refused to sign. So, only 39 of the 74 chosen delegates signed the Constitution--53%. Of the original 74, nearly half refused to attend, quit, or didn't sign.

Asked why he boycotted the Convention, Patrick Henry quipped, "*Because I smelt a Rat.*"

Overview of the Constitution

I shall first illustrate my view through others:

*The kind of government the Founding Fathers were trying to set up was the opposite of that obtained under the Articles. Congress under the Articles was synonymous with laissez-faire, with local popular sovereignty, lackadaisical government lacking in energy. Congress had no real powers, and for its purposes, needed none. But the Constitution involved an altogether different conception: a close-knit Union, endowed with large comprehensive powers that its makers wanted to be used toward promoting national economic development. Toward augmenting the forces of cohesion, they provided too for a **separate federal judiciary whose main purpose was to preserve the principle of national supremacy against state separatists or particularistic tendencies.***

... The design for the presidential office closely followed the design for achieving federal supremacy. They envisioned an activist and affirmative role.

-- Frank Bourgin; The Great Challenge--The Myth of Laissez-Faire in the Early Republic (1989), p. 50

They set up the most complex government yet devised by man,... Congressional enactments did not become law until approved by the President; the President in turn had to submit many of his appointments and all of his treaties to the Senate and might be impeached and removed by Congress. *The judiciary was to hear all cases arising under the laws and the Constitution and, therefore, had a right to interpret both the fundamental law and statute law. But the judiciary were*

appointed by the President and confirmed by the Senate, while they, too, might be impeached by Congress.

Since Senators were elected by the state legislatures for six-year terms, since the President was chosen by an electoral college, and since the judges were appointed, **no part of the government was exposed to direct public pressure except the lower house of Congress.** Moreover, officers of government were chosen for such a wide variety of terms, ranging from life to two years, **that a complete change in personnel could not be effected except by a revolution.**

-- Nevins and Commager; *Pocket History of the U.S.* (1956)

Even as the Constitution was establishing its sacred self in the general mind, it was the work, the composition, of writers; and the writers were largely patrician, not working class. They tended to be well educated, wealthy and not without self-interest. ... They themselves were aware of the benefits, if not to themselves then to their class, of the provision guaranteeing the debts incurred under the Confederation: the security holders, the creditors of America, stood to make a lot of money; at the same time, the debtors--the free holders, the small farmers--stood to lose everything. It was a practical document in their minds. ... They were concerned to establish a free and independent nation, but also a national economic order that would allow them to conduct business peaceably, profitably and in the stable circumstances deriving from a strong central government.

In my citizen's self-instruction I embrace all of [the various and contradictory] **interpretations** [of the Constitution]. *I believe all of them. I agree that something unprecedented and noble was created in Philadelphia; but that economic class self-interest was a large part of it; but that it was democratic and improvisational; but that it was, at the same time, something of a coup. I think all of those theories are true, simultaneously.* (Generally, so do I. KWR)

--E.L. Doctorow; from *The Nation*; 244:208+, F. 21 (1987)

A more biting synopsis was offered by another author:

"To secure the public good and private rights against the danger of such a [majority] faction," wrote James Madison in Federalist No. 10, **"and at the same time preserve the spirit and form of popular government is** then the great object to which our inquiries are directed." Here Madison

touched the heart of the matter: **how to keep the spirit and form of popular government with only a minimum of substance**; how to construct a government that would win some popular support but would not tamper with the existing class structure, a government strong enough to service the growing needs of [a privileged mercantile] class while withstanding the democratic demands of the popular class.

..., **the Founding Fathers...designed [the Constitution] to fragment power without democratizing it.** By separating the executive, legislative and judiciary functions and then providing a system of checks and balances among the various branches, including staggered elections, executive veto, Senate confirmation of appointments and ratification of treaties, and a two-house legislature, they hoped to dilute the impact of popular sentiments. They contrived an elaborate and difficult process for amending the Constitution, requiring proposal by two-thirds of both the Senate and the House, and ratification by three-fourths of the state legislatures.... To the extent that it existed at all, the majoritarian principle was tightly locked into a system of minority vetoes, making swift and sweeping popular actions nearly impossible.

The propertyless majority, as Madison pointed out in Federalist No. 10, must not be allowed to concert in common cause against the established social order. **First, It was necessary to prevent a unity of public sentiment by enlarging the polity and then compartmentalizing it into geographically insulated political communities.** The larger the nation, the greater the "variety of parties and interests" and the more difficult it would be for a majority to find itself and act in unison... An uprising... may threaten Massachusetts at one time and Rhode Island at another, **but a national government will be large and varied enough to contain each of these and insulate the rest of the nation from the contamination of rebellion.**

-- Michael Parenti; *Democracy for the Few*, 5th ed.

Parenti is a Socialist Yale poli-sci Ph.D. who, in tiresome Marxian naivete, bases everything on class friction. Building on the 1913 *An Economic Interpretation of the Constitution* by Columbia Professor Charles A. Beard, Parenti makes many cogent observations, though his arguments are too saturated with bitter socialistic envy to be of any real comprehensive

value. (The leftist creed is the same for little kids, "*Don't be selfish--give it to me!*") If such scholars spent as much time trying to help ~~the~~ poor rise from poverty as they spend supporting a coercive welfare state at the ruinous expense of free enterprise and honest private property, then we wouldn't *have* a significant underclass. But to cure the patient of poverty would kill the socialist doctor...)

Anyway, back to the Convention. It was well and tightly run, and the Constitution an excellent piece of deliberation by a diffuse body. That aside, what did the Constitution achieve?

The quiet revolution over time

In any proposed government, trying to discern (based on the constitutional rules alone) the probable winner is difficult. If you conclude inevitable oppression, then your opponents will blast such as purely speculative. **Truly, the winner can only be recognized through a completion ofboard moves.** (But if the "anti-game" theorists were *right*, then it's too late...) This is exactly what happened. Patrick Henry and George Mason feared the Constitution would ultimately produce "*a corrupt oppressive Aristocracy.*"

It is irrefutable, historical fact that most Convention delegates desired a vigorous, comprehensive, national government. (Washington, Hamilton, Madison and Jay had pined for such since the mid-1780's.) They realized, however, that completely obliterating the States would kill any chance of ratification. **So, instead of proposing total national government, they proposed "half of it which would be narrowly passed--yet grow in time to the desired fullness.** In *Democracy in America*, de Tocqueville observed:

Some nations form a permanent league (confederation) and establish a supreme authority which, though It cannot act directly In dealing with Individual citizens as a national government would do, nevertheless acts directly on each of the confederate peoples taken as a [state] body.

Such a [different] government, Is called federal.

A form of society is then discovered in which several peoples really fused into one in respect of certain common

interests but remained separate and no more than confederate in all else.

*[Here in America, however,...the central power acts without intermediary on the governed, administering and judging them itself, as do national governments, but it only acts thus within a restricted [constitutional] circle. Clearly here we have not a federal government **but an incomplete national government.** [It] is neither precisely national nor federal; ...and the new word to express this new thing does not yet exist.*

By calling the new government "federal" (which was synonymous in that day with "confederate") the "federalists" shrewdly glossed over its true *national* nature. Because of this, Americans still *believe*, over 200 years later, in "States' rights" and the latent power of the 10th Amendment (constitutional law's great Santa Claus). The Constitution gave us "*an incomplete national government*"--which, though incomplete, was enough to legally wipe out State sovereignty:

*Upon ratifying the Constitution or voluntarily joining the Union, **each** (sovereign) **State ceased to exist and was replaced by a totally new** (subject) **State that had a similar form but different substance.** This similarity in form has concealed the disparity in substance and thereby confused the issue of "State sovereignty."*

-- Al Adask; *The AntiShyster*, Volume 5, No. 1, p. 23

That was the genius of the Constitution: To ❶ utterly transform political reality *without the people understanding it*; ❷ destroy the States without sound or smoke; and ❸ foist a government destined to become, *over the distant horizon*, fully national in scope and authority. By the time the States and the people would realize they'd been trumped, it would be too late. **That was the genius of the Constitution.**

*It must be very evident then, that what this constitution wants (lacks) of being a complete consolidation...**it will necessarily acquire in its exercise and operation.***

-- "Brutus;" Essay I, 18 October 1787

Read between the lines of Washington's transmittal letter of the Constitution to Congress:

*It is obviously impracticable, in the Federal Government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. **Individuals entering into society must give up a share of liberty to preserve the rest.** The magnitude of the sacrifice must depend as well on situation... It is at all times difficult to draw with precision the line between those rights which must be surrendered and... which may be reserved,...*

Does that sound like a blank check, or what? 209 years later, Janet "For-The-Kids" Reno echoed the same demand:

To stop terrorism and organized crime, the American people must give up some of their personal freedom and privacy.

William Pitt understood the "must give up" rationale:

Necessity Is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.

As Jefferson wrote to Judge Roane on 6 September 1819:

...(W)hatever power in government is independent, is absolute also: in theory only, at first, while the spirit of the people is up, but in practice, as fast as that [vigilant spirit] relaxes.

The wide range of government

Any description of government must fall somewhere within this spectrum:

[Totalitarianism Socialism Laissez-Faire Republic Anarchy]

Metaphorically speaking, the Constitution "pulls to the left." Without the countersteering influence of conservatives, Libertarians, etc. the American vehicle will consistently drift to the political lane of, first, Democratic Socialism, and then Fascism. (If we ever let go of the wheel, we most assuredly will veer right over Big Brother's cliff.)

The constitutional "front end" has *not* been (as conservatives routinely assert) "knocked out of alignment." It was *designed and built* with its leftward camber. More shocking still, there's no provision for a garage alignment (sort of like the struts on a '73 Mazda). For the vehicle to ever track

straight down the road, without a strong countersteering to the right, *requires a brand new front-end*.

I haven't even discussed the electorate *tires*. The longer the vehicle is driven as is, the more unevenly the tires will be worn, and the more strongly we must countersteer. They are probably already ruined at this point, needing replacement with the front-end.

I'd recommend getting another car, but I see none on the lot in much better shape. Such is the gloomy diagnosis of this political mechanic. *Groan*.

The Constitution's natural tendency towards expansionist government was clearly discerned by the anti-federalists of 1787-88. Would they, however, warn of this loudly *enough--widely enough--in* time to defeat ratification?

Sadly, no, but they sure came close...

THE SLAM-DUNK

1787-1788: CONTEST FOR RATIFICATION

*What did determine the outcome [of ratification] were the rules of the contest, which **Hamilton played an important part in formulating.** The convention decided to disregard the amendment procedures prescribed in the Articles of Confederation and instead provided that each state should hold a special election for delegates to a ratifying convention. If and when the conventions of nine states voted to ratify, the Constitution would go into effect for those states, leaving the others free to come under the new roof or not as they pleased. **Had the rules of the Articles of Confederation been adhered to** (requiring the unanimous approval of the State legislatures), **the Constitution would never have been adopted.***

-- Forrest McDonald; *Alexander Hamilton--A Biography*

*The ratification struggle began with a clever move by the proponents of the new constitution: since sentiment in the country was hostile to the idea of a national government and preferred a confederation, of federation (the words **were** synonymous in the eighteenth century), the [Nationalist] proponents called themselves "federalists" **even though the new document was not, strictly speaking, a federation, a league of governments, as the old Articles were.** ...By taking the popular word "federal" to denote the new constitution, its backers gained an important "image" victory for themselves. The word "federal" came eventually to mean*

*the form of government embodied in the new Constitution, just as "confederation" came to mean the more strictly "league of states" idea of the Articles of Confederation and eventually the "Confederacy" of 1861-1865. **The foes of ratification, moreover, were left with the negative designation, "anti-federalists."** (The term "federalist" here, uncapitalized, refers to the proponents of the new constitution, 1787-1789, and is a different group from the political party formed in the 1790's, called "Federalist," usually capitalized.)*

-- The Anti-Federalist Papers; edited and introduced by Ralph Ketcham

Similarly, Lenin termed his tiny band of Communists the "Bolsheviks" ("majority")--leaving the Czarist majority with the ironic label "Mensheviks" ("minority"). The "federalists" not only purposely ignored the Articles and deceived the public, *but embodied this deception in their very name!*

Cleverly bypassing the State legislatures

Since all but two of the 13 States had a bicameral house, there would have been 24 separate house debates to win majority assent. So, the Founding Lawyers instead sent the proposed constitution to one ratifying *convention* in each State, which simplified their work by nearly half. Convention delegates were elected from generally federalist pools. In no State but the fiercely independent Rhode Island was the constitution actually put directly to the citizenry at large.

The fast break

*My object is to impress...the necessity of calling [speedily held] conventions in order to prevent enemies to the plan from giving it the go-by. When (the Constitution) first appears, with the sanction of this Convention, the people will be favorable to it. **By degrees, the state officers and those interested in the state governments will intrigue and turn the popular current against it.***

--Gouverneur Morris, to the Convention, 31 August 1787

Conventioneer Luther Martin observed that the people would not ratify the Constitution *"unless they are hurried into it by surprise."* According to the haughty federalists, it was to be *"this [Constitution], or nothing"* and Americans had a duty to

cultivate "a spirit of submission to the counsels of the great patriot band" of Conventioneers. Madison gravely warned, "Either we grant these powers or let the Union be dissolved."

This overbearing tone and hollow urgency alarmed many Americans who wrote essays pleading for caution:

It is natural for men, who wish to hasten the adoption of a measure, to tell us, now is the crisis--now is the critical moment which must be seized, or all will be lost: and to shut the door against free enquiry, whenever conscious the thing presented has defects in it, which time and investigation will probably discover. This has been the custom of tyrants and their dependents in all ages.

-- Letter from the "Federal Farmer"; 8 October 1787

Momentous then is the question you have to determine, and you are called upon by every motive which should influence a noble and virtuous mind, to examine it well, and to make up a wise judgment. It is insisted, indeed, that this constitution must be received, be it ever so imperfect. If it has its defects, it is said, they can be best amended when they are experienced. ***But remember, when the people once part with power, they can seldom or never resume it again but by force. Many instances can be produced in which the people have voluntarily increased the powers of their rulers; but few, if any, in which rulers have willingly abridged their authority.*** This is sufficient reason to induce you to be careful, in the first instance, how you deposit the powers of government.

-- "Brutus;" Essay I, 18 October 1787 (This was probably N.Y. judge Robert Yates, a Convention delegate.)

Are we to adopt this Government, without an examination? ...For my part, I am a stranger to the necessity for all this haste/ Is It not a subject of some small importance? Certainly it is.--Are not your lives, your liberties and properties intimately involved in it?--Certainly they are. Is it a government for a moment, a day, or a year? By no means--but for ages--Altered it may possibly be, but It is easier to correct before It is adopted. ...it ought to undergo a candid and strict examination. If thoroughly looked into before it is adopted, the people will be more apt to approve of it in practice, and every man is a TRAITOR to himself and his posterity, who shall ratify It with his

signature, without first endeavouring to understand it.-- We are but yet in infancy; and we had better proceed slow than too fast.--It is much easier to dispense powers, then recall them.

-- "John DeWitt"--22 October 1787

The conspirators, aware of the danger of delay, that allowing time for a rational Investigation would prove fatal to their designs, precipitated the establishment of the new constitution with all possible celerity;...

-- "Centinel;" Essay XII, 23 January 1788

*Consider what you are about to do before you part with this Government. Take longer time in reckoning things: Revolutions like this have happened in almost every country in Europe: Similar examples are...ancient Greece and ancient Rome: **Instances of the people losing their liberty by their own carelessness and the ambition of a few.***

-- Patrick Henry; speech of 5 June 1788 to the Virginia Ratifying Convention

Federalists brazenly used a "*trust us*" argument to win over the more evenly divided states. Ratify first and *then* propose your amendments. This shallow ploy was evident to many:

To ratify and then propose amendments is to surrender our all and then ask our new masters if they will be so gracious as to return to us our most important rights and privileges.

-- Joshua Atherton, to the **N.H.** ratifying convention

Also an issue was the constitution's condoning of slavery:

*We do not think ourselves under any obligation to perform works of supererogation in the reformation of mankind. We do not esteem ourselves under any necessity to go to Spain or Italy to suppress the inquisitions of those countries, or of making a journey to the Carolinas to abolish the detestable custom of enslaving the Africans. **But Sir, we will not lend the aid of our ratification to this cruel and inhuman merchandise, not even for a day.** There is a great distinction in not taking a part in the most barbarous violation of the sacred laws of God and humanity and our becoming guarantees for its exercise for a term of years. **Yes, Sir, it is our full purpose to wash our hands clear of it.***

-- Joshua Atherton, to the N.H. ratifying convention

The Federalist: A fantastic propaganda effort!

Within a month after the 17 September signing, a torrent of anti-constitution essays appeared in the newspapers, pleading for prudent wisdom. This horrified three particular federalists, who quickly went on the editorial offensive in what was to be a staggering 85 essays totaling some 175,000 words. *The Federalist* papers were written by Alexander Hamilton, James Madison (Convention delegates), and John Jay to defend the proposed Constitution to New Yorkers. Messrs. Hamilton, Madison, and Jay hid for *years* behind the pseudonym "Publius" (Valerius Publicola, a Roman lawgiver from Plutarch's *Lives*) to conceal from the public their true identities, motivations, and Convention attendance.

The Federalist, ... was not a scholarly (objective) commentary on the meaning of an established Constitution; it contained special pleading designed to secure ratification for a Constitution still untested. (at 31)

So strict were the precautions maintained by the three authors of The Federalist throughout the whole period while ratification hung in the balance that, of all the hundreds of people who read the "Publius" essays in 1787-1788, there were probably not a dozen individuals who definitely could state that Hamilton, Madison, and Jay had written them. (at 56)

-- Douglass Adair; *The Federalist Papers* (1980)

Alexander Hamilton

As he becomes vital, here's a hint as to the man's character:

This mask of anonymity, put on by the authors for sound political reasons, made it possible for Hamilton, in a note written just before his death and discovered just after, to lay claim to a full sixty-three numbers of The Federalist, some of which very plainly belonged to Madison. Just why this man of honor (hmmm) and sound memory (more like "convenient memory") should have engaged in this extraordinary action is impossible to explain. In any case, he touched off a tortuous dispute that went on for generations...over the authorship of the various papers, especially numbers 49-58, 62 and 63. (By 1944, these were proven by Professor Douglass Adair to be Madison's. KWR)

-- *The Federalist Papers*; Introduction by Clinton Rossiter

If Hamilton was capable of stealing intellectual credit from his former colleague Madison, *then how much more capable was he of deceiving the American public?* Hamilton, the consummate attorney politician (and admitted adulterer), according to Rossiter, "*persuaded and **plotted and bullied** his way over the months to the narrowest of victories in the New York convention.*"

In *The Federalist* #1, Hamilton cryptically admitted that '**My motives** (for supporting the constitution) **must remain in the depository of my own breast.**' Hmmm. The vain and feverish Monarchist that he was, Hamilton couldn't possibly reveal the truth about the constitution. Far from securing liberty, it was actually to pave the way for an eventual American oligarchy.

After the government was in operation, both Hamilton and Madison lived to regret theories and interpretations they had advanced in 1787-88 under the name of "Publius."

Opponents of the Constitution in 1787, with their continual harping on the argument that the new national government would destroy the state governments **led Hamilton, for example, to promote a** (falsely) **reassuring constitutional** theory which he was later (in 1790) to deny. In his heart he hoped that their fears would be realized; and when he was in power he did his best to consolidate the central government at no matter what cost to the states. **To lull the suspicions of his opponents in 1787, however,** he had insisted in *Federalist* 28 that "the State governments would in all possible contingencies, afford complete security against invasions of the public liberty by the national authority"; and in Number 26 he had specifically cast the "State legislatures" in this role of guardian of the public liberty "against the encroachments of the general government." **Once the government was established,** his own inclinations and the exigencies of party politics combined to make Hamilton repudiate the idea of preserving strong state governments and combat it with every means at his disposal. **In fact his whole public life centered around weakening the political power of the individual states.**

-- Douglass Adair; *The Federalist Papers* (1980), p. 56

The contrast between Hamilton and Madison

Madison, the premier scholar and abstract thinker of his day, no doubt wanted only a *reasonable* national government. Hamilton, however, yearned for a *colossus*.

It is characteristic of the different outlook of the two men that Hamilton in No. 9 advocates the new union because it will make it easier to suppress with military force such outbreaks as Shay's Rebellion, while Madison in No. 10 argues that union will prevent the recurrence of any such outbreaks. Hamilton prized the union as an instrument guaranteeing that the rich would win every class struggle; Madison hoped that union would prevent[such] from being declared in America.

-- Douglass Adair; *The Federalist Papers* (1980), p. 93

Although both views would prove to be valid, Hamilton would successfully rudder the new government on *his* tack--much to Madison's later horror.

My general impression of *The Federalist*?

Highly erudite and brilliantly written, they nonetheless contains some of the shrewdest bits of specious reasoning I've ever seen. One must *very* carefully read between the lines. For example, hear from Hamilton in #84 on why the constitution had no bill of rights:

/...affirm that bills of rights,...are not only unnecessary in the proposed Constitution but would even be dangerous. They would contain various exceptions to powers which are not [expressly] granted; and,...would afford a co/orable pretext to claim more than were granted. Why declare that things shall not be done which there is no [expressly granted] power to do?

Because people feared the new government's *unstated and implied* powers and demanded a Bill of Rights merely for greater caution. Jefferson well understood this, as evidenced by a 1787 letter to Madison (Bergh 6:386):

To say...that a bill of rights was not necessary because all is reserved [from] the general government which is not given, might do for the audience to which it was addressed; but It Is surely a gratis dictum, the reverse of which might Just as well be said; and It Is opposed by strong Inferences from the body of the [Constitution], as well as from the

*omission of the clause of our present [Articles of] Confederation, which had made the reservation [of States' rights] in express terms... Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, **and what no just government should refuse or rest on inference.*** (Note: The clause referred to was from Article II. More on this in Chapter 9. KWR)

We got our Bill of Rights, and Hamilton's silly argument (already stillborn by the constitution's own guarantee of several rights) was summarily dismissed by the 9th Amendment. More outrageous "reasoning" is found in #84:

*It ought also to be remembered that the citizens who inhabit the country at and near [Washington, D.C.] **will, in all questions that affect the general liberty and prosperity, have the same interest with those who are at a distance, and that they will stand ready to sound the alarm** when necessary, and to point out the actors in any pernicious project. **The public papers will be expedient messengers of intelligence to the remote inhabitants of the Union.*** (Who was he kidding? KWR)

The Federalist appealed primarily to contrived fears and "dangers" while blasting all who held even the slightest reservation of the new constitution. To Hamilton, there were no mere sincere differences of opinions on this crucial subject, but rather (in #1) "*errors of minds led astray by preconceived jealousies and fears*" or a "*torrent of angry and malignant passions*" or "*an over-scrupulous jealousy of danger to the rights of the people*" or "*enthusiasm of liberty... infected with a spirit of narrow and illiberal distrust.*" He sarcastically scoffed at (in #33) all honest and logical concerns regarding the proposed provisions of unlimited taxation and legislation:

[The taxation and legislative clauses] have been held up to the people in all exaggerated colors of misrepresentation as the pernicious engines by which their local governments were to be destroyed and their liberties exterminated; as the hideous monster whose devouring jaws would spare neither sex nor age, nor high nor low, nor sacred nor profane...

The people were suspicious and nervous

The constitution won easily only in Delaware, Pennsylvania, New Jersey, Georgia and Connecticut. In eight states the question of ratification was deeply divided, especially in Massachusetts, Virginia, and New York (where the constitution was opposed two to one in the countryside, but favored ten to one in federalist NYC). See Appendix B/1.

*...the judiciary has managed to unlawfully secure great wealth and power from the very beginning, starting with the Constitutional Convention of 1787. The American people have gotten an erroneous and distorted version of what actually went on at that convention. Of the fifty-five men assembled in Philadelphia, a majority of thirty-four were lawyers; **these lawyers were working for a constitution and government to serve themselves, not the people.** In 1787, the common people were suspicious of the delegates who had deliberated in secret and who had not provided a Bill of Rights for protection from the powerful national government...[to be] established.*

-- Ralph Boryszewski; *The Constitution That Never Was*

One anti-federalist delegate and Revolutionary War veteran addressed the Massachusetts ratifying convention:

*Mr. President...if any body had proposed such a constitution as this [during the Revolutionary War], it would have been thrown away at once... These lawyers, and men of learning, and moneyed men, that talk so finely, and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, expect to get into Congress themselves; **they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all us little folks...***

-- Amos Singletary

Of great concern to many delegates was the open-ended nature of the constitution. Federalists scoffed at this fear, replying that the government would have no authority unless the Constitution had expressly given it. One anti-federalist, the "Federal Farmer," tore this hollow placation to shreds:

The first point urged {by federalist James Wilson} is that all power is reserved not expressly given: that particular enumerated powers only are given, that all others are not given. But the Constitution does not appear to respect it even

in any view. To prove this, I might cite several clauses in it (1:9 states) 'No Title of Nobility shall be granted by Congress.' Were this omitted, what power would Congress have to make titles of nobility? In what part of the Constitution would they find it? The answer must be [according to Wilson's reasoning] that Congress would have no such power, that the people, by adopting the Constitution, will not part with it. Why then by a negative clause restrain Congress from doing what it would have no [expressly delegated] power to do?

This clause, then, must have no meaning, **or imply** that were it omitted Congress would have the power in question, either upon the principle that some general words in the Constitution may be so construed as to give it, **or the principle that Congress** [does indeed] **possess the powers not expressly reserved.** (As history was to sadly prove, both principles were true. KWR)

On 19 November 1787 the following was published in the *Boston Gazette*, effectively summarizing anti-federalist spirit:

*As much has been said in favour of the proposed new Constitution,--and as little is allowed to be said against it,--I now send you, for the information and consideration of your readers, the ideas the people had of a Constitution in the year 1776, contained in a number of serious questions and answers,...at a time when the whole people were contending with a powerful nation for the security of their Liberties and a free Constitution, with a determined resolution to transmit the same to succeeding generations. And as we are now about to establish the free Constitution which they then fought and bled for, **shall we not be allowed to examine it?**--shall we not be allowed to give our sentiments upon it, with the same manly freedom with which they were inspired while the bayonet was held at their breasts? We Will.*

Q. What ought to be the object of government?

A. The welfare of the governed.

O. How is such a government to be obtained?

A. By forming a constitution which regards men more than things, **by framing it in such a manner that the Interests of the governours and governed shall ever be the same;** and by delegating the powers of government so that the people may always have it in their power to resume them, when

abused, **without tumult or confusion**, and to deliver them to persons more worthy of trust.

Q. Should the officers of the old constitution be entrusted with the power of making a new one when it becomes necessary?

A. No. Bodies of men have the same selfish attachments as individuals, and they will be claiming powers and prerogatives inconsistent with the liberties of the people. Aristocracies will by this means be established, and we shall exchange a bad constitution for a worse, or the tyranny of one for the tyranny of many.

Q. Who ought to have such a trust conferred upon them, as it is the highest and most important which man can delegate?

A. First, Men of the greatest wisdom and integrity, who have as much, if not more, natural and acquired sense of understanding. **Secondly, Men who can be under no temptations to frame political distinctions in favour of any class or set of men. Thirdly, Men who the moment the constitution is framed, must descend into the common paths of life, and have as great a chance to feel every defect in the constitution as any man.** And lastly, Men who regard not the person of the rich, nor despise the state of the poor, but who prefer justice and equity in all things, and would go to any lengths to establish the common rights of mankind on the firmest foundation.

Q. Ought the constitution which a proper number of such persons agree upon be immediately adopted?

A. No. After agreeing upon a constitution, or form of government, **they ought to adjourn for six or nine months**, publish the plan, request every man to examine it with the utmost seriousness and attention, make remarks upon it, point out any defects which may appear in it, and offer amendments. Then let the same body of men who framed it, joined by an additional number of new members, meet at the time fixed in their adjournment, canvass the whole again, take the defects pointed out into consideration, and finally agree....

-- from American Political Writing during the Founding Era
1760-1805, Vol. I, pp. 702-4

The federalists' dirty tactics

The federalists (having planned this "sneak attack" of a constitution *months prior the Convention*) had already geared up for the conflict and pressed relentlessly forward, while the

cautious sentiment of the anti-federalists was heartily trampled beneath the feet of haste and expediency. Many pro-Confederation delegates were insulted by their legislatures and by local federalist newspapers, while the constitution was rammed down the nation's throat.

The name of the man who but lisps a sentiment in objection to [the proposed federal government], is to be handed to the printer, by the printer to the public, and by the public he is to be led to execution.

-- "John DeWitt;" Essay I, 22 October 1787

During the discussion we met with many insults, and some personal abuse; we were not even treated with decency, during the sitting of the [Pennsylvania] convention...

-- Dissenting Address of the Pennsylvania Convention Minority, 18 December 1787

When the federalist majority in Pennsylvania called, on 28 September, for an *October* ratifying convention, anti-federalists (horrified by the rash, early date) prevented a quorum by boycotting the afternoon session. The next day, the federalists ordered the sergeant-at-arms to look for absentee anti-federalists--and *with the help of a mob* two of them were forcibly brought to the State House! Quorum achieved, the assembly called for a 20 November convention. (So outraged was the anti-federalist minority, that 21 of the 23 signed an address of dissent, a moving statement which somewhat stemmed the federalist tide.) But wait, there's more!:

Later the Pennsylvania Federalists bought out a newspaper to prevent it from reporting on their activities. The problem wasn't that the paper, the Pennsylvania Herald, was inaccurately reporting the debates on the Constitution. The trouble was that the paper was going about its job all too well, and the Federalists worried that the richly detailed reports on their actions in the ratification debate...could give their allies trouble in other states. From the time the Federalists bought the paper until the Constitution was ratified, the Herald didn't publish one word on the constitutional debate in Pennsylvania, the single most important issue of the day. (p. 30)

-- Richard Shenkman; *Legends, Lies & Cherished Myths*

According to Carl Van Daren's *The Great Rehearsal*, Pennsylvania anti-federalist speeches were never printed

because the convention's shorthand writer, Thomas Lloyd, *"appears to have been bought off by the Federalists, and published only...speeches by the Federalists Wilson and McKean."* Serious allegations were made in New York and elsewhere of federalist mail-tampering. Faced with a February convention defeat, the New Hampshire federalists narrowly got an adjournment for *four* months, biding time for other States to ratify and thus pressuring the June convention into acceptance.

Dirty politics pay off

Though anti-federalist sentiments were strongly and very widely held, they were outspent and outwitted:

...[H]ow did it manage to win ratification? Actually, it did not have a wide backing, initially being opposed in most of the states. But the same superiority of wealth, organization, and control of political office and the press that allowed the rich to monopolize the Philadelphia Convention enabled them to orchestrate a successful ratification campaign. The Federalists used bribes, intimidation, and other discouragements against the opponents of the Constitution.

What's more, the Constitution never was submitted to a popular vote.

{Except in Rhode Island, where it was rejected 11-1. KWR} Ratification was by state convention composed of delegates drawn mostly from the same affluent strata as the framers. Those who voted for these delegates were themselves usually subjected to property qualifications.

-- Michael Parenti; *Democracy for the Few*, 5th ed. (1988)

With the federalists' head start and clever political maneuvering, the States fell in rapid succession. The ratification was rushed through at breakneck speed. Delaware first ratified on 7 December (less than three months after the signing) and the ninth state, New Hampshire, ratified on 21 June 1788 (only *10 months* after the signing). By contrast, even during the pressures of war, the Articles of Confederation took *four* years to ratify--and the Bill of Rights took *two* years! In my view, any State vote should have been delayed for a year, providing ample time for public consideration and a *second* general convention. Such sentiment was often voiced:

There are some parts of this constitution which I cannot digest: and, sir, **shall we swallow a large bone for the sake of a little meat?** Some say swallow the whole now, and pick out the bone afterwards [through future amendments]. **But I say, let us pick off the meat, and throw the bone away.**

-- Samuel Thompson; delegate to the Massachusetts ratifying convention

The near-holdout states of Virginia and New York were clearly promised that if they adopted, correctional amendments would be proposed by the first Congress.

The Constitution took effect on 4 March 1789 with 11 states under it. Washington finally had a government which could "*assert*" its "*imperial dignity*" and "*command obedience*." North Carolina at first rejected, but later ratified when promised that a bill of rights would be soon added.

From here on, I shall refer to the States as "states"--diminished bodies which gave up their sovereignty. By the way, before the Constitution was ratified I refer to it with a small "€".

"*Rogue Island*" (the only State which *didn't* endorse the Philadelphia Convention) refused to even call a ratifying convention, but put the Constitution to a *popular referendum*--a sarcastic pandering to the document's haughty "*We the People*" preamble. (If "*the People*" allegedly created the Constitution, then let "*the People*" of Rhode Island approve it!) This referendum was only possible given R.I.'s small size; her countryside could be quickly informed, unlike the larger States. "*The People*" rejected it on 24 March 1788 by an overwhelming 11-1 margin (2,711 to 239).

Many federalists, in a display of furious pouting, had refused to vote--but hey (as the smug cliché goes), if you don't vote, then you can't complain.

Congress would get even two years later.

FEDS ARE ON-LINE

The natural progress of things is for liberty to yield and government to gain ground.

-- Thomas Jefferson

30 April 1789

With all but North Carolina and Rhode Island under the national belt, Washington took office. Not surprisingly, of the 49 living delegates (six had died by 1789), **39 of them--80%--would hold some office under the Constitution** (including 2 Presidents, 1 Vice President, 5 Justices, 11 Senators and 8 Representatives). Only *ten* refused or were not appointed.

Federalists had unfairly blasted the anti-federalists as myopically favoring local/State concerns over national ones. To me, this charge is more accurately posed *inversely--that* federalists, in lust of national office, trampled over the States. Visions of future federal service couldn't have *not* tainted the Conventioneers of 1787--"Let's *make this new government really powerful because we will be running it!*" They should have been *prohibited* from serving under, and benefitting from, the very institution they unlawfully created.

Congress {predictably} stalls on Bill of Rights

The Philadelphia Convention [putatively] omitted a Bill of Rights only because its members thought that very limited powers were [expressly] granted to the new federal government. They supposed that confining Congress to the exercise of the delegated powers would itself eliminate any threat to

fundamental rights, and that inclusion of a Bill of Rights would...suggest a loose construction of the delegated powers, which would be an even greater threat to liberty.

The people were not satisfied by this rather technical, lawyers' argument. (And rightfully not. KWR)

-- Archibald Cox; *The Court and the Constitution*, p. 38

A number of states had accepted the [Constitution] with urgent recommendations for changes. At first it seemed that Congress would pay no attention to these suggestions. Patrick Henry and others then set up a clamor which had to be heeded, and Congress referred the proposals [from various states] to a committee. ...the Congressional majority threw out all suggestions for altering the scheme of government..

-- Nevins and Commager; *Pocket History of the U.S.*, p. 132

Public restlessness at the lack of a bill of rights became acute. New Yorkers made an issue of federalist John Jay's circular letter to Governor Clinton, which promised a second convention to adopt amendments. Alarmed at this prospect, Madison privately listed four grounds for passing a Bill of Rights: "**O**to prove [federalists] friends of liberty, **B**ring in N.C. and R.I., **O** to improve the Constitution." (Notice his priorities.)

Derailing the second-convention movement, Madison moved that the House begin, on 25 May, considering the promised bill of rights. House federalists, however, argued that adopting new tax laws and organizing the government were more important. (Figures...) Madison then enlisted the help of President Washington, who wrote on 31 May that amendments "*are necessary to quiet the fears of some respectable characters and well-meaning men.*" (Having achieved their national government, Washington *et al* could afford to be magnanimous and ceased their petty insults of the Antis.) On 8 June, Madison spoke to the House:

And I do most sincerely believe that if congress will devote but one day to this subject, so far as to satisfy the public that we do not disregard their wishes, it will have a salutary influence on the public councils, and prepare the way for a favorable reception of our future measures.

Meaning, "*Just because we're on-line doesn't mean that we're home free. We've got to shut up this racket, or else the states will force a second convention--and who knows what could happen then!*" The House finally "saw the light." Convening a 13 member committee (5 of whom were Convention delegates), they hurriedly drafted seventeen proposals culled from Madison's study of the over 200 submitted by the states.

The federalist Senate (with only two *Antis* out of 22 members), however, was less cheerful about a bill of rights than even the House. Meeting behind closed doors without record of their debates, the Senate reduced the number of proposed amendments from 17 to 12 and largely gutted what little strength the House gave them. A "conference committee" of 3 Reps and 3 Senators restored many of them, and their version was passed by Congress in late September. The states ratified ten of the twelve by 15 December 1791.

Madison, who would later soften some of his sharper federalist edges, deserves credit for pushing the amendments through a clearly reluctant House. Without his persistence, we likely would *never* have had a Bill of Rights.

Our purposely diluted Bill of Rights

However, let us understand that these amendments were a scrappy bone, very grudgingly thrown to the people.

[Madison] Ignored all the recommendations that addressed the powers of government: *nothing on taxation as a last resort (a provision that appeared on every list), nothing on two-thirds votes [from both houses] for treaties, trade laws, or standing armies in peacetime, nothing toward the prohibition of monopolies (urged by every state except Virginia). There was nothing that looked like the grand charter of rights Mason and Henry had envisioned as a preface to the Constitution;...*

-- Henry Mayer; *A Son of Thunder*, p. 455

Not only that, but the amendments which were offered had been written in alarmingly equivocal language.

The 1st amendment forbids only "*prohibiting*" the free exercise of religion--not infringement. (Ask the polygamist Mormons.) It also seems to invite the interpretation of protected speech being that solely of *political* content.

The **2nd** amendment protecting the right to keep and bear arms was couched within an unnecessary subordinate clause (which has caused confusion to this day).

The **3rd** allows the quartering of soldiers in private houses without the owners' consent *if prescribed by law*. During some future martial law, we may indeed see this occur. (Why do you think the modern census questionnaires demand such detailed information about your dwelling?)

Searches and seizures are permitted in the **4th** if they are not "*unreasonable*" (whatever that is), and the courts have thus far carved out at least 14 exceptions to the warrant requirement. The House recently passed H.R. 666, *The Exclusionary Rule Reform Act of 1995*, which wholly circumvents the 4th by allowing evidence seized without warrant if the cops believe that they operated within the 4th amendment. (Wink, wink. This is *Animal Farm*-style jurisprudence.)

"*Due process of law*" is now a sick joke. In the **5th**, only "*capital*" or "*infamous*" crimes require grand jury indictments and this is bypassed in the military or during "*time of war or public danger*" (whatever that is). The Government may take private property for public use as long as the owner has been paid "*just compensation*" (calculated by the feds, of course). In the 1928 *Springer* ruling, Chief Justice Holmes opined:

Property must not be taken without compensation (He conveniently omitted "*just*" from "*just compensation*." KWR), *but...some property may be taken or destroyed for public use without paying for it, If you do not take too much.* (!!!)

In the **6th**, courts have consistently ruled that "*all criminal prosecutions*" means only "*capital*" crimes as described in the 5th. You have no right to a jury trial for crimes with sentences less than six months. Also, what constitutes a "*speedy trial*" should have been specified, and the right to non-licensed "*counsel*" should have been clearly guaranteed.

In the **7th**, "*according to the rules of common law*" allows federal courts reversible review of jury verdicts.

In the **8th**, the definitions of "*excessive*" bail and fines and "*cruel and unusual punishment*" were purposely left to the whimsical interpretation of federal courts.

The **9th** amendment was well put, though robbed of its practical value by the Constitution as a whole.

The **10th** amendment was, in a vivid portent of things to come, emasculated by Madison's refusal to strictly limit the Federal Government to powers "**expressly**" delegated--even though "**expressly**" was promised to the states in Jay's circular letter. The feds can do anything they were merely "*delegated*" to do, which includes implicit and consequential powers. (I'll cover this thoroughly in Chapter 9.)

We were thrown a sop and told, "*There are your precious amendments--now shut up!*" Today, we have no *real* freedom of religion or of the press, no *real* right to keep and bear arms, no *real* right to a jury trial or counsel of one's choice, and no *meaningful* limit to federal expansion. The Constitution is actually an open-ended document and the Bill of Rights merely contains ten speed bumps in the road to Tyranny.

Not that I'm wholly ungrateful. Speed bumps are better than nothing, I guess:

Imagine where we would be today if... the lack of a Bill of Rights had not been taken up as the major concern of the anti-federalists, such as Patrick Henry. We would be trusting our rights and liberties to the reading of the Attorney General, who today (this was in 1987) believes that people who are defendants in criminal trials are probably guilty or they would not be defendants,...

-- E.L. Doctorow; from *The Nation*

The Judiciary Act of 1789

One particularly alarming area of the Constitution had been the ominously incomplete Article III regarding the judiciary. In one brief sentence, Section 1 gave Congress a virtual blank slate to create any system of federal courts they chose:

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

The number of Supreme Court Justices was left dangerously unspecified, and Congress has, for purely political reasons, monkeyed with that number for years--from 6 to 5 to 7 to 9 to 10 to 7 to 9. Not only that, the Supreme Court's appellate ju-

risdiction is dependent upon "*such exceptions, and under such regulations as the Congress shall make.*" Understandably nervous with this, many states had proposed amendments to tighten up matters. In a 17 January 1788 letter to Yates, *Anti Melancton Smith* outlined the common fear:

It appears to me [the judiciary] is so framed as to clinch all the other powers, and to extend them in a silent and imperceptible manner to any thing and everything, while the Court who are vested with these powers are totally independent, uncontrolable and not amenable to any other power in any decisions they may make.

Clearly, Congress had to head off the states before a *real* clamor over the judiciary erupted.

Upon successfully cajoling the...ratifying conventions to [first] accept the Constitution and to [then] submit their proposed amendments to the First Congress, the founding lawyers had achieved their goal. The First Congress was itself to [unlawfully] serve as a second [de facto] constitutional convention for Madison and eighteen other former delegates who had previously attended the Philadelphia Convention. Most of the delegates to this "second Constitutional Convention" were intending, along with President Washington, to assume sovereign powers. They would reject all of the proposed amendments from the state ratifying conventions that insisted upon limiting the judicial power of the federal courts.

For example, the ratifying convention of Virginia proposed an amendment which was to take from Congress the power to create federal courts inferior to the Supreme Court, other than courts of admiralty. The New York Convention submitted an amendment which was to limit the jurisdiction of the inferior courts of the United States to the trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies. Two...conventions had proposed... prohibited a judge of the Supreme Court from "holding any other office under the United States, or any of them."

—Ralph Borsyewski; *The Constitution That Never Was*

Also, it was vital that the power of juries be greatly diluted:

*The founding lawyers...had repeatedly seen juries refuse to convict their fellow citizens who were caught smuggling contraband goods to avoid paying the duties required by English law. **The Jury defied the supreme authority, the***

King of England. However, under their new constitutional system, the lawyers intended to put an end to such powers.

... They would continue to get themselves elected to the Congress... where they would enact the laws. They would continue as in England with Attorneys General and Districts Attorney to enforce the laws, and finally only lawyers could be judges who would interpret the law. With the power of the three departments in their hands, the lawyers could make themselves a sovereign authority with better control over the people than the King himself.

-- Ralph Boryszewski; *The Constitution That Never Was*

On 7 April 1789, Ellsworth, Peterson, Strong, Few, Maclay, Wingate, and Lee were appointed to a Senate committee to organize/complete the federal judiciary. Of the seven members, the first four were Philadelphia conventioners and lawyers. Those four, along with ardent federalist Wingate, dominated the committee. The bill contained about 8,500 words--nearly *double* that of the Constitution's 4,543.

This wasn't really a bill that could be signed into law; it was really an amendment to the Constitution, which created the Supreme and inferior courts. The Act also created the office of Attorney General as well as a U.S. Attorney in each judicial district. **The creation of the last two offices was for the purpose of establishing adversarial proceedings in the federal courts.** Such proceedings were incapable of being implemented under the existing Constitution because...[it] only provided hearing Courts [without power to conduct] adversarial proceedings. Why should [Americans] have to submit to adversarial proceedings under which they would be forced to hire lawyers for their own defense? The adversarial system was terribly abused in the colonies.... (at 138)

The lawyers avoided creating a continuous, rotating Grand Jury that would maintain its independence and records. The Grand Jury was shielded so the people [could not easily] report acts of wrongdoing... The lawyers placed U.S. Attorneys in positions of great influence over Grand and Trial Juries. They gave the judges the opportunity to **exert** their influence over the Grand Jury. (at 104)

-- Ralph Boryszewski; *The Constitution That Never Was*

One problem: the judicial measure would never be accepted by the country at large if sent out as a proposed amendment.

Congress, acting without authority as a constitutional convention, drafted a lengthy amendment to complete the Judicial Article of the Constitution.... However, Congressmen knew that neither the people nor the states would ratify that proposed amendment. Instead they asked President Washington to sign it into law (as a mere bill). In order not to call attention to this law, Congress, at about the same time, released the Bill of Rights as amendments to be ratified by three-fourths of the states. Their ploy worked. All attention was immediately shifted to the Bill of Rights. The people believed that Congress had kept its (sic) word. The proposed amendment to the Judicial Article of the Constitution was instead passed relatively unnoticed as a law (and not properly ratified as an amendment).

-- Ralph Boryszewski; *The Constitution That Never Was*

The federalists delayed ratification of the Bill of Rights for over two years while they organized the new federal courts and armed the judges with powers to counter individual rights. A most useful power, borrowed from the English, was the power of the court to "*punish by fine or imprisonment, at the discretion of said courts, all contempts (whatever those are) of authority in any cause or hearing before the same.*" Judges can jail dissidents in "*contempt of court*" for any reason and for any length of time. (Ask G. Gordon Liddy.)

Courts may also '*grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in courts of law.*'" Judges have the authority to invoke former Common Law decisions to overrule a trial jury's verdict. For example, the police officers acquitted by a California jury in the Rodney King case were tried a *second* time in federal court for "*civil rights violations.*"

Ralph Boryszewski contends that all legislative acts in the eleven months before a functioning Supreme Court were automatically invalid, because there was no judicial body to check Congress until 3 February 1790. This would make the Judicial Act of 1789, its courts, and all their decisions void. (This legal point is like a 225 mph car; it's very interesting, but you'll never see it on the road. I mention it nonetheless.)

THE "HAMILTONIAN" YEARS

Appointed Washington's Secretary of the Treasury, Hamilton at last had his hands on the reins of real power. He wasted no time in stretching the weak bounds of the Constitution to remake America in his own mercantile image.

When [Hamilton] signed the Constitution he admitted that "no man's ideas were more remote from the plan than his were known to be." He further confessed that his signature was given only because the choice was between "anarchy and Convulsion on the one side, and the chance of good to be expected from the plan on the other."

*It was in this same spirit of disdain, only partially concealed, that Hamilton wrote as "Publius." He was never reconciled to the Constitution's "weaknesses" as long as he lived. Even while he was preparing to write The Federalist he drew up a private memorandum in which he prophesied its failure **unless additional power could be squeezed out of its clauses by interpretation.** When appointed Secretary of the Treasury under Washington all of his actions were directed to strengthening the "frail and worthless fabric" by administrative action.*

Moreover Hamilton felt so strongly about the need for an overruling, irresponsible, and unlimited government that it showed through even in his Federalist essays, in spite of his attempt to conceal his opinions in order to achieve ratification. [In] Federalist 9...the union is advocated because it will permit the use of troops raised in once section of the country to stamp out revolts in other districts, an expedient resorted to by Hamilton during the Whiskey Rebellion. Essays 23 and 30 mirror his belief that no government could endure without unlimited fiscal and military power, and foreshadows his doctrine of "liberal construction" which was later invoked to justify the National Bank.

-- Douglass Adair; *The Federalist Papers* (1980), p.75-6

An overview of Hamiltonianism

*...federal financial institutions would stabilize the nation by cementing to the central power **rich men whose prosperity would depend on federal authority.***

-- James Thomas Flexner; *The Young Hamilton*, p.440

*Hamilton's method for bringing about the monetization of American society, against its preference and yet with its approval, eluded his contemporaries: otherwise it could not have been done. To be sure, some of his techniques were fairly obvious. ... **The genius of his system lay far deeper, in his ideas of establishing the procedures by which people interacted, rather than attempting to ordain what they should do.***

His conception was elegant in its simplicity. He would construct efficient fiscal machinery (with monopoly powers, of course), make it beneficial to everyone, and interlock its operations into the workings of the economy. Imperceptibly, the people would come to find it a convenient, a useful, and finally a necessary part of their daily lives, and a stimulus to industry as well. That accomplished, everyone must comport himself in accordance with the rules by which the machinery of government itself functioned, and it would be almost impossible to dismantle the machinery short of dismantling the whole society. (Exactly this was accomplished by the Federal Reserve System of 1913. KWR)

How things are done governs what can and will be done: the rules determine the nature and outcome of the game. That was the heart of Hamiltonianism.

-- Forrest McDonald; *Alexander Hamilton--A Biography*

*.../ will not suffer...the slanders of [Hamilton] whose history, from the moment at which history can stoop to notice him, **is a tissue of machinations against the liberty of the country** which has not only received and given him bread, but heaped honors on his head.*

--Thomas Jefferson to Washington in 1792; Ford 6:109

Rewarding speculators and stiffing veterans

The public creditors, who consisted of various descriptions of men, a large proportion of them very meritorious and very influential, had had a considerable agency in promoting the adoption of the new Constitution, for,...,it exhibited the prospect of a government able to do justice to their claims...

-- Alexander Hamilton; *Works* (7:418)

Hamilton's first caper, in the name of instituting sound public credit, was to ensure that speculators in Revolutionary War securities were cashed out at full face value, though they had

bilked the original holders (mostly veterans) of these bonds for pennies on the dollar. As Jefferson explains:

[Having just returned from France in 1789)...**Hamilton's financial system had then passed. It had two objects; 1st, as a puzzle, to exclude popular understanding and inquiry; 2nd, as a machine for the corruption of the legislature; for he avowed the opinion that man could be governed by one of two motives only, force or interest;** force, he observed, in this country was (at the time) out of the question, and the interests, therefore, of the members must be laid hold of, **to keep the legislature in unison with the executive.** And with grief and shame it must be acknowledged that his machine was not without effect; that even in this, the birth of our government, some members were found sordid enough to bend their duty to their interest, and to look after personal rather than public good.

It is well known that during the war the greatest difficulty we encountered was the want of money or means to pay our soldiers who fought, or our farmers, manufacturers and merchants who furnished the necessary supplies of food and clothing for them. After the expedient of paper money had exhausted itself, certificates of debt were given to the individual creditors, with assurance of payments so soon as the United States should be able. But the distress of these people often obliged them to part with these for the half, the fifth, and even a tenth of their value; and speculators had made a trade of cozening them from the holders by the most fraudulent practices, and persuasions that they would never be paid. **In the bill for funding and paying these, Hamilton made no difference between the original holders and the fraudulent purchasers of this paper.** Great and just repugnance arose at putting these two classes of creditors on the same footing, and great exertions were used to pay the former the full value, and to the latter, the price only which they had paid, with interest. **But this would have prevented the game which was to be played, and for which the minds of greedy members were already tutored and prepared.** When the trial of strength on these several efforts had indicated the form in which the bill would finally pass, **this being known within doors sooner than without,** and especially than to those who were in distant parts of the Union, **the base scramble began.** Couriers and relay horses by land, and swift sailing pilot boats by sea, were

*flying in all directions. Active partners and agents were associated and employed in every state, town and country neighborhood, and this paper was bought up at five shillings, and even as low as two shillings in the pound, **before the holder knew that Congress had already provided for its redemption at par. Immense sums were thus filched from the poor and ignorant,** and fortunes accumulated by those who had themselves been poor enough before. **Men thus enriched by the dexterity of a leader would follow of course the chief (Hamilton) who was leading them to fortune, and become the zealous instruments of all his enterprises.***

-- Thomas Jefferson; *Recollections of the Hamiltonian System*,
4 February 1818

Hamilton justified this with a sermon on the necessity of sound public debt. In his 9 January 1790 *Report on the Public Credit* he preached, with icy logic, that distinguishing between original and subsequent (speculator) holders of the war debt would violate the sanctity of contracts and discourage future purchases of government bonds. The speculator, he claimed, "...*had no agency in [the purchase], and therefore ought not to suffer. He is not even chargeable with having taken an undue advantage. (Hahl) He paid what the commodity was worth in the market, and the risks(!) of reimbursement upon himself. ...--a hazard which...turned on little less than a revolution in government.*"

So why did speculators even buy the paper if it was so worthless and required nothing less than "*a revolution in government*" in order to be reimbursed? Because Hamilton would see such a revolution through. He continues:

*...there is a consequence of this (maintaining interest-bearing federal securities based on vigorous taxation), **less obvious, though not less true, in which every other citizen is interested. It is a well-known fact, that, in countries in which the national debt is properly funded, and an object of established confidence, It answers most of the purposes of money. Transfers of...public debt are there equivalent to payment in specie** (gold and silver); [Such debt] passes current as specie. The same thing would, in all probability, happen here under the like circumstances.*

Do you understand the implications? If Smith can *force* Jones at gunpoint to make good on Smith's debt--including the interest--then Smith will have excellent credit and would be stampeded by willing lenders. **So sound would be this debt, it would be traded as if it were gold.** As long as Smith can successfully extort wealth from Jones, Smith's credit will remain irreproachable. Smith, being lazy, wouldn't condescend to actually produce real wealth himself.

Merely let *Jones* do all the hard work and produce the wealth. Smith can prance in later and demand, at gunpoint, whatever "share" he desires. Based on this ability of theft, speculators will clamor to be Smith's lender. **The foundation of no-cost currency is *public* debt, and the foundation of all public debt is coercive taxation, and the foundation of all coercive taxation is the barrel of a gun.** Hamilton continued, "*..the creation of [public] debt should always be accompanied with the means of extinguishment [through coercive taxation at gunpoint, so that more debt can be sold]...*"

This was the crucial void in the Confederation--Congress had no gun to point at the States or the people. **To put a "gun" in the hands of a new national government was the primary object, the great *sine qua non*, of the Constitution. A comprehensive *de jure* authority of Congress backed with *de facto* guns.** Having been instrumental in creating this political "holy grail" from 1780 to 1788, Hamilton was at last thirstily drinking from the cup.

"a national debt, ..., a national blessing"

Having thus made federalist speculators wealthy, Hamilton had much of Congress under his wing. His second goal was the U.S. Treasury assuming the states' war debts. Some diligent states (notably Virginia) had nearly paid off their respective debt, while most (e.g., Massachusetts) had not been so scrupulous. Under Hamilton's welfare scheme, the diligent states would be forced to support their slothful neighbors and pay war debt which they themselves had *not* incurred. (Welcome to the Union!) According to Hamilton, by forcing the states to "think" nationally, such an assumption

would "insure to the revenue (taxation) laws a more ready and satisfactory execution..."

Jefferson, having just been appointed Secretary of State, had his desire for administrative harmony and conciliation quickly taken advantage of by Hamilton:

*This game (enriching the speculators) was over, and another was on the carpet at the moment of my arrival; and to this I was most ignorantly and innocently made to hold the candle. **This fiscal maneuver is well known by the name of the Assumption.** Independently of the debts of Congress, the states had during the war contracted separate and heavy debts; and Massachusetts particularly, in an absurd attempt, absurdly conducted, on the British post of Penobscott: and the more debt Hamilton could rake up, the more plunder for his mercenaries. This money, whether wisely or foolishly spent, was pretended to have been spent for general purposes, and ought, therefore, to be paid from the general purse. But it was objected that nobody knew what these debts were, what their amount, or what their proofs. **No matter; we will guess** them to be twenty millions. But of these twenty millions, we do not know how much should be reimbursed to one state, or how much to another. **No matter; we will guess.** And so another scramble was set on foot among the several states, and some got much, some little, some nothing. **But the main object was obtained, the phalanx of the Treasury was reinforced by additional recruits.** This measure produced the most bitter and angry contest ever known in Congress, before or since the Union....*

-- Thomas Jefferson; *Recollections of the Hamiltonian System*,
4 February 1818

The states, especially Virginia, were quite upset:

*In an agricultural country like this, therefore **to erect, and concentrate, and perpetuate a large monied interest**, is a measure which your memorialists apprehend must...produce one or other of two evils, the prostration of agriculture at the feet of commerce, or a change in the present form of federal government, fatal to the existence of American liberty...*

During the whole discussion of the federal constitution by the convention of Virginia, your memorialists were taught to believe "That every power not [expressly] granted was retained," under this

impression and upon this positive condition, declared in the instrument of ratification, the said government was adopted by the people of this Commonwealth; but your memorialists can find no clause...authorlzing Congress to assume the debts of the states!

-- Virginia Resolutions of the Assumption of State Debt,
16 December 1790

When Virginia reacted, Hamilton grew frantic:

This [resolution] Is the first symptom of a spirit which must either be killed or will kill the Constitution... Ought not the collective weight of the different parts of the government be employed in exploding principles which they contain?

-- Hamilton to Chief Justice John Jay, 1790

At this point, Madison parted political ways with Hamilton.

Before the new government had been in operation a year, Madison became deeply disturbed over the trend of events in the national capital. In his view, the trouble lay in the activities and policies of... Hamilton... Hamilton,... seized the opportunity during the formative stage of the new government to "administer" it--the term is Madison's--so that it would more closely approach his ideal of a consolidated oligarchy. With devious brilliance, Hamilton set out, by a program of class legislation, to unite the propertied interests of the eastern seaboard into a cohesive administration party, while at the same time he attempted to make the executive dominant over the Congress by a lavish use of the spoils system. In carrying out his scheme, though he personally was above corruption, Hamilton transformed every financial transaction of the Treasury Department into an orgy of speculation and graft in which selected senators, congressmen, and certain of their richer constituents throughout the nation participated.

As Madison watched Hamilton's program develop, he became disillusioned and bitter. In the Convention he had fought to create a Constitution under which "the interests and rights of every class of citizen should be duly represented and understood." Now he saw the machinery of his new government being used to exploit the mass of the people in the interest of a small minority.

-- Douglass Adair; *The Federalist Papers* (1980), p.171-2

Thus, the states got their first sour taste of the elastic Constitution, and were rudely awakened to the horrifying

scope of Congress's "implied powers." Hamilton got his assumption, but his road became increasingly uphill from then on. Still, his momentum was sufficient to carry through his next and most important financial plan. Jefferson continues:

Still the machine was not complete. *The effect of the funding system, and of the Assumption, would be temporary; it would be lost with the loss of the individual members whom it has enriched, and some engine of influence more permanent must be contrived, while these myrmidons were yet in place to carry it through all opposition. This engine was the Bank of the United States.*

The coup de grace -- the Bank of the U.S.

Permit me to issue and control the money of a nation, and I care not who makes its laws.

-- Mayer Auselm Rothschild

Rothschild probably learned this from Hamilton, who had in 1780 (at age twenty-three!) submitted to Robert Morris, superintendent of finance, a plan for a national bank. Speaking of Hitler's 1920 sketches of future triumphant arches (13 years before achieving power and 19 before invading Poland), WWII historian O'Donnell warned in retrospect of those "*who have the power to dream concretely.*" Above anybody else, Hamilton dreamt "*concretely.*"

Mindful of the intense controversy over Hamilton's previous schemes, Washington sought the opinion of his Cabinet on the bank's constitutionality. (Washington couldn't go the Supreme Court for fear of conflict; Justice James Wilson was attorney for and director of the bank of North America, and Chief Justice Jay was deeply involved in banking himself.) I quote Secretary of State Jefferson's opinion at length because he correctly saw this issue (escaping the putative bounds of the Constitution through the "implied powers" doctrine) as the critical turning point:

*I consider the foundation of the Constitution as laid on this ground--that all powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are to reserved to the states, or to the people (10th amend.). To **take a single step beyond the boundaries thus specially***

drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition. The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States by the Constitution.

I. They are not among the powers specially enumerated.
For these are,--

1. A power to lay taxes for the purpose of paying the debts of the United States. But no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the Constitution.

2. "To borrow money." But this bill neither borrows money nor insures the borrowing it...

3. "To regulate commerce...among the states..." To erect a bank, and to regulate commerce, are very different acts.... To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling.

II. Nor are they within either of the general phrases, which are the two following:--

1. "To lay taxes to provide for the general welfare of the United States;" that is to say, "to lay taxes for the purpose of providing for the general welfare;" for the laying of taxes is the power, and the general welfare the purpose for which the power is to be exercised. Congress are not to lay taxes ab libitum for any purpose they please; but only to pay the debts or provide for the welfare of the Union. In like manner, they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please which might be for the good of the Union, **would render all the preceding and subsequent enumerations of power completely useless. It would reduce the whole instrument to a single phrase--that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they pleased.**

It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, **and not that which will render all the others useless. Certainly no such universal power was meant [by the States] to be**

given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power (right of incorporation) now proposed as a means was rejected as an end by the Convention which formed the Constitution...

2. The second general phrase is, "to make all laws necessary and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore, is not necessary, and consequently not authorized by this phrase.

It has been urged that a bank will give great facility or convenience in the collection of taxes. Suppose this were true; **yet the Constitution allows only the means which are "necessary," not those which are merely "convenient," for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to every one; for there is no one which ingenuity may not torture into a convenience in some way or other, to some one of so long a list of enumerated powers. Therefore it was that the Constitution restrained them to the necessary means; that is to say, to those means without which the grant of power would be nugatory...**

Can it be thought that the Constitution intended that for a shade or two of convenience, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several states, such as those against mortmain, the laws of alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, and the laws of monopoly?

Nothing but a necessity invincible by other means, can justify such a prostitution of laws, which constitute the pillars of Jurisprudence. Will Congress be too strait-laced to carry the Constitution into honest effect, unless they may pass over the foundation--laws of the state governments, for the slightest convenience of theirs?

-- Thomas Jefferson; Opinion on the Constitutionality of the Bank, 15 February 1791

Eight days later, Hamilton responded with 15,000 words:

... To understand the word ("necessary") as [Jefferson] does, would be to depart from its obvious and popular sense, and to

give it a restrictive operation, an idea never before entertained (by us federalists). ***It would be to give it same force as if...absolutely or indispensably had been prefixed to it...***

The degree in which a measure is necessary, can never be a ~~test~~ of the legal right to adopt it; that must be a matter of opinion, and can only be a test of expediency. ***The relation between the measure and the end; between the nature of the means employed towards the execution of a power, and the object of that power, must be the criterion of constitutionality, not the more or less of necessity or utility...***

This restrictive interpretation of the word necessary, is also contrary to this sound maxim of construction; namely, that the powers contained in a constitution of government,...ought to be construed liberally in advancement of the public good...

...the word necessary, the general clause, can have no restrictive operation derogating from the force of this principle; indeed, that the degree in which a measure is or is not necessary, cannot be a test of constitutional right, but of expediency only.

If the end be clearly comprehended with any of the specified powers and if the measure have an obvious relation to that end, and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority. (Isn't it curious that he never explained this in *The Federalist*? KWR)

'Necessary' doesn't mean "necessary?" Webster's would disagree. Mine reads, "1. essential; indispensable 2. inevitable 3. required." "Necessary" does not mean "expedient"--it means "necessary!" Hamilton, unhappy that the Convention did not create an immediate national government, ignored clear language to facilitate one eventually. Most expansion of federal power has relied on his specious "elastic clause" reasoning of 23 February 1791. As John Adams had forecasted in 1787:

No man will contend that a nation can be free that is not governed by fixed laws. All other government than that of permanent known laws is the government of mere will.

In *The Federalist* #44 Madison had argued, in Hamiltonian style, the "necessary and proper" clause:

...that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included.

Madison was now particularly horrified by Hamilton's sly employment of his own argument to justify the Bank, which was later used to break down the separation of powers between Congress and the Presidency, and to weaken the autonomy of the states. (Worse yet to come was the 1819 *McCulloch v. Maryland* case in which the Marshall Supreme Court cast in bronze Madison's axiom nearly verbatim. Madison was hoisted, in jurisprudential perpetuity, by his own *Federalist* #44 petard. No wonder his admission of authorship was published only *posthumously*!) In covert rebuttal to his regretted #44 axiom, Madison developed the "strict construction" theory which Jefferson used to prove the Bank unconstitutional.

Washington, cornered in another matter, was in no position to hold up Hamilton's bank. Through a federalist concession in order to receive Southern support for the Assumption, the new federal capital was to be moved from Philadelphia to the Potomac (where Madison had in advance purchased £4,000 of land nearby). Washington placed the capital *adjacent* to his Mount Vernon estate, however, this was three miles *outside* the general boundary set by an executive commission, and thus illegal. So, *ex post facto*, Washington clamored for congressional legislation to enlarge the capital's possible area in order to neighbor his property. The federalist Senators blocked this until Washington gave in and signed the bank bill. Ah, politics...

Jefferson would later comment on the bank:

We are completely saddled and bridled, and the bank is so firmly mounted on us that we must go where they will guide.
(1796)

I think it an object of great importance...to simplify our system of finance, and bring it within the comprehension of every member of Congress. Hamilton set out on a different plan. In order that he might have the entire government of his machine, he determined so to complicate it as that neither the

*President nor Congress should be able to understand it, or to control him. He succeeded in doing this, not only beyond their reach, but so that he at length could not unravel it himself. He gave to the debt in the first instance, in funding it, the most artificial and mysterious form he could devise. He then molded up his appropriations of a number of scraps and remnants, many of which were nothing at all, and applied them to different objects in reversion and remainder, **until the whole system was involved in impenetrable fog**; and while he was giving himself the airs of providing for the payment of the debt, he left himself free to add to it continually, as he did in fact, instead of paying for it.*

(To Albert Gallatin in 1802; Bergh 10:306)

Hamilton's funding scheme, an amalgamation of English and Dutch schemes, was exceedingly complex:

*He offered creditors **six different options** with varying rates of interest, varying terms of redemption, conversion in whole or in part into annuities of several kinds, including public land grants in part payment of twenty cents per acre. This was so complicated a scheme that few could fully understand it.*

*His tontine scheme, fashioned after the British tontine of 1789, involved a system of rights of annual payments to survivors, **the annuities therefrom becoming the means of creating a permanent investment class.***

-- Frank Bourgin; *The Great Challenge—The Myth of Laissez-Faire in the Early Republic* (1989), p. 83-4

The effect of Hamilton's measures *in toto*...

*...attached powerful groups of men in every state to the national government. The refunding of the national debt, and the assumption of the state debts, made a host of men who held continental and state paper **look to the new government for their money.** Manufacturers who depended on the new tariff law for their prosperity looked in the same direction. The national bank secured the support of influential groups of moneyed men, for it made all financial transactions easier and safer. The excise [on liquor] not only furnished revenue, **but, being collected at every local still, brought home to plain citizens the authority of the Federal government.** Altogether Hamilton's policies created a solid phalanx of propertied men who stood fast behind the national government, ready to resist any*

attempt to weaken it, and it made that government much more impressive than before.

-- Nevins and Commager; *Pocket History of the U.S.*, p.138

Like Medusa's head of snakes, the banksters would eventually grip the country in a virtual stranglehold. In 1835, President Andrew Jackson courageously lopped off the head by his veto of the rechartering of the Second National Bank:

You [banksters] are a den of vipers. I intend to rout you out and by the eternal God I will rout you out. If the American people only knew the rank injustice of our money and banking system, there would be a revolution by morning.

The bold efforts the present Bank has made to control the government, the distress it has wantonly caused, are at best a premonition of the fate which awaits the American people should they be deluded into the perpetuation of this institution or the establishment of another like it.

Sadly, the "Third National Bank"--the Federal Reserve system of 1913--was established. We *will* rout *that* out, too.

1798: The Alien and Sedition Acts

That summer [the Federalist] Congress passed four laws, known collectively as the Alien and Sedition Acts, which were designed to suppress both "foreign" (French) influence in America and Republican party opposition to the Adams administration. The extreme measures in three of these laws made them subjects of controversy throughout the nation. ... The Sedition Act, by far the most notorious of the bunch, authorized imprisonment of persons who conspired "with intent to oppose any measure...of the government"-or who produced "any false, scandalous, and malicious writing" against the federal government or... officials.

Jefferson called this legislation "an experiment on the American mind to see how far it will bear an avowed violation of the Constitution"...

-- *The Real Thomas Jefferson*, p. 198

In bitter protest, Madison and Jefferson wrote what were respectively adopted as the Virginia and Kentucky Resolutions.

Resolved, that the several states composing the United States of America are not united on the principle of

unlimited submission to their general government; but that, by a compact under the style and title of a Constitution for the United States [of America], and of amendments thereto, they constituted a general government for special purposes [and] delegated to that government certain definite powers, reserving, each state to itself, the residuary mass of right to their own self-government; and that whenever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force.

If the [Alien and Sedition Acts] should stand, these conclusions would flow from them: that the general government may place any act they think proper on the list of crimes, and punish it themselves whether enumerated or not enumerated by the Constitution...; that they may transfer its cognizance to the President, or any other person, who may himself be the accuser, counsel, judge, and jury whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these states being, by this precedent, reduced as outlaws to the absolute dominion of one man, and barrier of the Constitution thus swept away from us all, no rampart now remains against the passions the powers of a majority in Congress to protect from a like exportation, or other more grievous punishment, the minority of the same body, the legislatures, judges, governors, and counsellors of the states, nor their other peaceable inhabitants, who may venture to reclaim the Constitutional rights and liberties of the states and people, or who for other causes, good or bad, may be obnoxious to the views or marked by the suspicions of the President, or be thought dangerous to his or their election or other interests, public or personal; **that the friendless alien has Indeed been selected as the safest subject of a first experiment, but the citizen w/ll soon follow**, or rather has already followed, for already has a Sedition Act marked him as prey; that these and successive acts of the same character, **unless arrested at the threshold, necessarily drive these states Into revolution and bloodshed**, and will furnish new calumnies against republican government, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron.

-- Kentucky Resolutions of 1798 (Bergh 17:379-80, 387)

These 1798 Acts were the predecessors to our modern-day H.R. 666 (*The Exclusionary Rule Reform Act of 1995*) and the 1996 "Anti-Terrorism" bill which allows the president to decree who is a "terrorist" to be tried in a secret star chamber.

The 1800 election: Freedom or Tyranny?

This was the first presidential election between political parties: DemoRepublican Jefferson and Federalist Adams.

Anglo-Americans, like the English themselves, were by and large nonideological people, but in 1800 the country was divided into two fiercely antagonistic ideological camps. In a loose, general sort of way, and with allowance for a number of exceptions, it can be said that the rival ideologies derived from contrasting views of the nature of man.

The first view, that associated with the Hamiltonian Federalists, was premised upon the belief that man, while capable of noble and even altruistic behavior, could never entirely escape the influence of his inborn baser passions--especially ambition and avarice, the love of power and money.

The second, that espoused by the Jeffersonian Republicans, held that man was born with a tabula rasa, with virtually boundless capacity for becoming good or evil, depending upon the wholesomeness of the environment in which he grew.

From the premise of the first it followed that government should recognize the evil drives of men as individuals, but check them and even harness them in such a way that they would work for the general good of society as a whole.

From the premise of the second it followed that government should work to rid society of as many evils as possible--including, to a very large extent, the worst of evils, government itself.

The one was positive, the other negative; the one sought to do good [through evil], the other sought to eradicate evil.

-- Forrest McDonald; *The Presidency of Thomas Jefferson*

I cannot see any honor in encouraging evil even for ostensibly good purposes. I would prefer to strongly discourage and punish evil with a goal of its emasculation, while simultaneously rewarding good. *This has yet to be tried.*

Nothing more exemplified their differences than Hamilton's vision of a sweatshop America. Despising the countryfolk as unwashed rubes, Hamilton yearned to move them from their farms to factories (owned by the banksters, of course). This very thing was happening in England. One can sense his contempt for common people in his 5 December 1791 *Report on the Subject of Manufactures*, where he noted:

*It is worthy of particular remark that, in general, **women and children are rendered more useful** (to us), **and the latter more early useful, by manufacturing establishments, than they would otherwise be** (on their own self-sufficient farms]. Of the number of persons employed in the cotton manufactories of Great Britain, it is computed that four sevenths, nearly, are women and children, of whom the greatest proportion are children, **and many of them of a very tender age...** (II)*

Much is explained by a statement he made when, as Secretary of the Treasury, he was at the height of his career and influence: "Though our republic has only been in existence some ten years **there are already two distinct tendencies—the one democratic, the other aristocratic.**"¹¹ The people of the United States, Hamilton continues, "**are essentially businessmen. With us agriculture is of small account. Commerce is everything.**"¹²

-- James Thomas Flexner; *The Young Hamilton*, p. 438

Jefferson, in his 1784 *The Importance of Agriculture*, had expressed a vastly contrary view:

*Those who labor in the earth are the chosen people of God, if He ever had a chosen people, whose breasts He has made His peculiar deposit for substantial and genuine virtue. It is the focus in which He keeps alive that sacred fire, which otherwise might escape from the face of the earth. **Corruption of morals in the mass of cultivators is a phenomenon of which no age nor nation has furnished an example.** It is the mark set on those who, not looking up to heaven, to their own soil and industry, as does the husbandman, for their substance, depend for it on the casualties and caprice of customers. Dependence begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition. The mobs of*

*great cities add just so much to the support of pure government, as sores do to the strength of the human body. **It is the manners and spirit of a people which preserve a republic in vigor. A degeneracy in these is a canker which soon eats to the heart of its laws and constitution...***

Though I've lived both abroad and in big cities, for many years now I have lived in the countryside--often without telephone or nearby neighbors. Why? **Jefferson was right.**

By 1920 more Americans lived, for the first time, in large cities than in the country. By no coincidence, that decade was known for its bacchanalian greed--a turning point for America in general. Today, folks are fleeing the cities for the simple life of small towns. This "reverse pioneerism" is now being led by the entrepreneurs, many of whom home-school. This growing trend of self-sufficiency horrifies the feds, who would rather us trapped in the government captivity of housing projects.

Happily, Jefferson was elected President in 1800 and reelected in 1804. On 4 March 1805, he gave his Second Inaugural Address which highlighted his fine first term:

*At home, fellow citizens, you best know whether we have done well or ill. The suppression of unnecessary offices, of useless establishments and expenses, **enabled us to discontinue our internal taxes...** The remaining revenue, on the consumption of foreign articles, is paid cheerfully by those who can afford to add foreign luxuries to domestic comforts. Being collected on our seaboard and frontiers only, and incorporated with the transactions of our mercantile citizens, **It may be the pleasure and pride of an American to ask, what farmer, what mechanic, what laborer ever sees a tax-gatherer of the United States?** (Bergh 3:376)*

Today, there are federal agencies in every town. The people are federally taxed a *third* of their lives. Federal regulation touches every part of our burdened existence. Unfortunately, Jefferson's principles could not last against the nationalist machinery of the Constitution which encouraged an intrusive government. Jefferson was a miraculous aberration of a man; Jeffersonianism a brief, happy aberration of politics.

The brewing 2nd American Revolution is merely the latest battle between the Federalists and the Jeffersonian Republicans. *This* time, we do not have to rely upon *speculations* of future constitutional oppression, as such is plain to for all to see. The revolt is real for the *pain* is real.

1803: *Marbury v. Madison*

This case was pivotal. It established the sole "right" of the Supreme Court to review constitutionality of legislation. On this foundational case the entire judicial tyranny was built. However, one curious fact remains largely unknown:

*It was strangely ironical that Marbury v. Madison would be heard by a Court presided over by John Marshall. He was now Chief Justice, **but he had been the Secretary of State** (previous to Madison) **who forgot to deliver Marbury's commission and thus brought about the lawsuit.** Although today's standards of judicial conduct would disqualify a judge from hearing a case arising from his own absent-mindedness, **no one thought it odd at the time.***

--Archibald Cox; *The Court and the Constitution*, p. 49

So, what is my point?

Not to trash the Constitution. I mean to step outside the balmy climate of parchment idolatry and help explain our current national predicament. Though purposely skewed towards expansionary government, I think the Constitution is still correctable through several amendments.

Don't get the idea that I'm knocking the American system.

-- A1Capone (1899-1947)

My goal was *not* to demonize the Framers, but to more correctly portray their motives and politics, thus allowing a clearer understanding of the Constitution, which combined elements of monarchy, aristocracy, and democracy. They purposely embodied the Presidency with the monarchical characteristics of energy, secrecy, and dispatch. The Senate purposely leaned towards the "*aristocratic virtues*" of wisdom and stability. The people were thrown a bone with the democratically elected House--although the government *in toto* did not really depend on popular consent for its will.

I *do* respect the Framers and their Constitution very much--however, *with qualifications*. As 80% of them were secular urbanites undisposed to simple country ways and/or devout nationalists who abhorred State sovereignty, the Constitution merely manifests such beliefs. **It's time we recognized that they were *not* gods, but men with their own political agendas.**

As I advocate decentralizing a vastly limited political power to the most basic stratum possible (e.g. states, or even counties), I view the overwhelming authority of the federal government as improperly concentrated and dangerous. **Such merely results from the "Rules of 1787--the Federal Government was *guaranteed* to grossly expand because the Constitution *permitted and encouraged* it.** Several clauses in the Constitution have been the culprits allowing this expansion. (Many of these crafty clauses were slipped in the document during the Committee of Style, probably by Hamilton--the fountainhead of oily brilliance. I will cover this thoroughly in chapter 6.)

This much is certain: the people would have *never* ratified the Constitution had they known just *how far* its implied powers would be construed to their detriment. They were *rushed and deceived* into ratifying.

We have a virtually supreme federal government today because the Constitution's Framers *designed* it to happen. I'll *prove* in the next two chapters that...

[The Constitution]...has *either authorized such a government as we have had, or has been powerless to prevent it*

-- Lysander Spooner; *No Treason* (1870)

"Welcome" to the Union...

Oh, I nearly forgot about "*Rogue Island*." Recall that she not only had spurned the 1787 Convention, but had also rejected the Constitution by a popular vote of 11 to 1. On 5 June 1789 the U.S. Senate expressed their official desire that R.I. bind herself to the Constitution and join the Union. Senator Page had a problem with the Senate's pressure on R.I.:

...as a member of Congress, I doubt the propriety of this body interfering in the business. If I put myself, for a moment, into the situation of a citizen of a State that has refused to accede to the constitution of the United States, I must admit that I should watch your actions with a jealous eye:.... But what occasion is there for adopting such a resolution? Are gentlemen afraid to leave them to their own unbi-ased judgment? For my part I am not: it will demonstrate the goodness of the constitution, if it be adopted upon mature consideration, without any aid but its own intrinsic value.

(Note: The thin luster of the Constitution would quickly wear off, exposing the meager intrinsic value beneath. The federal-ists knew this, of course, and were pressuring R.I. and N.C. to join *before* the fed's rouge of freedom melted away.)

But suppose [the R.I. legislature] decline [joining the U.S.], what is next to be done? I hope gentlemen will hesitate before they go any further. I think we should be employed more in the line of our duty, by attending to the interests of our constituents, and completing the organization of a Govern-ment they ordered, than to spend our time about business which is not within our powers. Why should we interfere with the concerns of our sister States (R.I. and N.C.) who have not yet joined the new Government? (Just so. KWR)

-- sourced from *Abridgment of the Debates of Congress*, p.101

Shunned by President Washington in his fall 1789 visit to New England, the Governor of R.I. wrote him on 18 January 1790 and requested that he direct the Congress to stop charg-ing R.I. citizens "~~foreign~~" tonnage and duties. Silence.

On 6 March 1790, R.I. proposed that certain amend-ments to the Constitution be added *before* she joined the Union. Here were the two most important proposals:

3. *That the powers of government may be reassumed by the people, whensoever it shall become necessary to their happiness: --That the rights of the States respectively to nominate and appoint all State officers, and every other power, Jurisdiction and right, which Is not by the said Constitution clearly (expressly) delegated to the Congress of the United States, or to the departments of government thereof, remain to the people of the several States, or*

their respective State governments, to whom they may have granted the same;...

6. ...And no aid, charge, tax or fee, can be set, rated or levied upon the people, without their own (individual) consent, or that of their representatives, so elected;--nor can they be bound by any law, to which they have not,...assented for the public good.

Amendment #3 would have destroyed the termite "*necessary and proper*" clause so vital to gradual federal expansion. Amendment #6 would have ensured true *voluntary* taxation. This was the last straw for the federalist Senate which had never forgiven R.I.'s historical stubbornness. **The Senate voted on 18 May 1790 to *embargo* all trade between the 12 united states and Rhode Island:**

Resolved, That all commercial intercourse between the United States and the State of Rhode Island, from and after [1 July 1791], be prohibited, under suitable penalties,...

"Join us or else!" (Talk about a "welcome mat!") Done via the interstate commerce clause of I:8:3, which later emerged as the flimsy rationale of unlimited federal expansion and bane of commercial liberty. A portent of tyranny to come!

Federalists in Newport and Providence threatened to secede. Tiny and utterly alone, Rhode Island's convention reluctantly succumbed two weeks later to this tidal wave and narrowly ratified the Constitution after nearly a month of agonized debate, 34-32, on 29 May 1790.

Understand this well: If *Rhode Island*, a sovereign nation *completely outside* the jurisdiction of the Federal Government, could be so overtly bullied in 1790--**then how much more vulnerable today are the 50 states, or the people, or mere individuals?** Folks, the writing has been on the wall for 200 years. We simply refused to read such unpleasant "graffiti" because of our constitutional mythology.

We've been too in love with our hologram of liberty.

CONCERNS THEN... NIGHTMARES TODAY

*Does it not insult your judgment to tell you, Adopt first, and then amend! ...Is your rage for novelty so great, that you are first to sign and seal, and then retract? ...agree to bind your-self hand and foot--for the sake of what? of being unbound? ...to go into a dungeon--for what? To get out? **Is there no danger, when you go in, that the bolts of federal authority shall shut you in?***

I look upon [the constitution] as the most fatal plan that could be possibly be conceived to enslave a free people.

-- Patrick Henry, to the Virginia ratifying assembly (1788)

Every successful revolution puts on in time the robes of the tyrant it has deposed.

-- Barbara Tuchman

When the cat and mouse agree, the grocer is ruined.

-- Arab proverb

As I'll prove, the constitutional cat and the federal mouse are in agreement, and the grocer populace is ruined.

Naturally, the proposed constitution was picked apart and debated in great detail. What the anti-federalists were generally most concerned about was the emasculation of state sovereignty, state legislatures, and state courts. While detail of this is of obvious scholarly interest, I'll concentrate only on

the fundamental objections which are today poignant prophecies come true. Among these were/are:

Federal statute is "*the supreme law of the land*" which displaces state/local law.

Congress is virtually unlimited in legislative possibilities under the "*necessary and proper*" clause.

Congress is virtually unlimited in scope of direct taxation under the "*for the general welfare*" clause.

Treaties give the feds municipal police power, usurping the states. The Senate impeaches its own members.

Judiciary has no check or balance by the states or the people..

Judiciary decides if Federal actions are unconstitutional.

Judiciary interprets "spirit" of Constitution through "*equity*" clause.

States helpless against federal tyranny--militia is in federal hands.

Amendments basically in the hands of Congress, thus very difficult.

Federal "*supreme*" law gutted state authority

It took only three clauses to gradually, eventually spell the end of the states and general liberty:

● Make the Constitution and U.S. law paramount to the states' laws and constitutions (V1:2);

✎ Give Congress trucing powers directly over Americans, bypassing the states (1:8:1); and

● Give Congress powers for implementation (Z:8:18).

This Constitution, and the laws of the [federal] United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the [federal] United States, shall be the supreme law of the land (the U.S.A.); and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

-- V1:2; Constitution for the United States of America

It merits particular attention in this place, that the laws of the Confederacy (Hamilton was still trying to deceive the public that the Constitution did not erect a national government, but retained the Confederacy. KWR) as to the enumerated and legitimate objects of its jurisdiction will become the SUPREME LAW of the land; to the observance of which all officers, legislative, executive, and judicial in each State will be bound by sanctity of an oath. Thus the...[states] will be

incorporated into the operations of the national government as far as its just and constitutional authority extends (Which may be construed to include anything! KWR); and [the states] will be rendered auxiliary to the enforcement of its (the federal "United States") laws.

--Alexander Hamilton; *The Federalist* #27

Although the new Federal Government was touted to be only the "foreign department" of the states, **the cruel truth was that the states had been reduced to mere domestic agencies of the feds.** The anti-federalists very quickly perceived this fundamental shift of power:

It is true this government is limited to certain objects, or to speak more properly, some small degree of power is still left to the states, but a little attention to the powers vested in the general government, will convince every candid man, that if it is capable of being executed, all that is reserved for the individual states must very soon be annihilated,... The powers of [Congress] extend to every case that is of the least importance--there is nothing valuable to human nature, nothing dear to free men, but what is within its power. It has the authority to make laws which will affect the lives, the liberty, and property of every man in the [several] United States; nor can the constitution or laws of any state, in any way prevent or impede the full and complete execution of every power given.

[The Congress are] vested with the great and uncontrollable powers, of laying and collecting taxes, duties, imposts, and excises; of regulating trade, raising and supporting armies, organizing, arming, and disciplining the militia, instituting courts, and other general powers. And are by this clause invested with the power of making all laws, proper and necessary, for carrying all these into execution; and they may so exercise this power as entirely to annihilate all the state governments, and reduce this country to one single government. And if they may do it, it is pretty certain they will: for it will be found that the power retained by individual states, small as it is, will be a clog upon the wheels of the government of the United States; the latter therefore will be naturally inclined to remove it out of the way. Besides, it is a truth confirmed by the unerring experience of ages, that every man, and every body of men, invested with power, are ever disposed to increase

*it, and to acquire a superiority over every thing that stands in their way. This disposition, which is implanted in human nature, will operate in the [Congress] to lessen and ultimately to subvert the state authority,... It **must be very evident then, that what this constitution wants** (lacks) **of being a complete consolidation...it wll necessarily acquire in its exercise and operation.***

-- "Brutus;" Essay I, 18 October 1787

*We dissent,...because the powers vested in Congress by this constitution, must necessarily annihilate and absorb the legislative, executive, and judicial powers of the several states, and produce from their ruins one consolidated government, **which from the nature of things wll be an iron handed despotism, as nothing short of the supremacy of despotic sway could connect and govern these United States under one government.***

*...the question then will be reduced to this short issue, viz., whether satiated with the blessings of liberty; whether repenting of the folly of so recently asserting their unalienable rights, against foreign despots at the expense of so much blood and treasure, and such painful and arduous struggles, the people of America are not willing to resign every privilege of freemen, and submit to the dominion of an absolute government, that will embrace all America in one chain of despotism; **or whether** they will with virtuous indignation, spurn at the shackles prepared for them, and confirm their liberties **by a conduct becoming freemen.***

*The powers of Congress under the new constitution, are complete and unlimited over the purse and the sword, and are perfectly independent of, and supreme over, the state governments; **whose Intervention in these great points Is entirely destroyed.***

-- Dissenting Address of the Pennsylvania Convention
Minority, 18December1787

The "*supreme law of the land*" clause established the legislative hierarchy. The next two clauses allowed that paramount federal authority to be financed for expansion:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States;...

– I:8:1; Constitution for the United States of America

[In the Virginia ratifying assembly] *Madison defended the power to levy taxes, however, by insisting that it would not be much used. "It can be of little advantage to those in power to raise money in a manner oppressive to the people," he said, which brought the argument full circle to Henry's contention that the people were being asked to grant large powers on the mere chance that they would not be used.* (pp.410-11)

When the debate turned to the "general welfare" and "necessary and proper" clauses, George Mason pointed out that nothing in the Constitution forbade the government from restricting the press. He offered a hypothetical example. "Suppose oppressions should arise under this government, and a writer should dare to stand forth, and expose to the community at large the abuses of those powers; could not Congress, under the idea of providing for the general welfare, and under their own construction, say that this was destroying the general peace, encouraging sedition, and poisoning the minds of the people...could they not, in order to provide against this, lay a dangerous restriction on the press? (p. 427)

-- Henry Mayer; *A Son of Thunder*

Because "*general welfare*" has been contorted to include *anything*, there is no longer any *legal* taxable limit--only the political limit of expediency. Mason's above prophetic example--was fulfilled by the Sedition Act of 1798. Finally,

[The Congress shall have power to] ***make all laws which shall be necessary and proper*** for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

— 1:8:18; Constitution for the United States of America

AB Jefferson proved, if "*necessary*" can be construed as merely "*convenient*," then there is *no end* to federal law; there is *nothing* conceivably *outside* the scope of Congressional interest.

The Fathers...created no august and inflexible corpus of constitutional law... Instead they wrote the briefest sort of document. They laid down a structure for a state and endowed the Federal Government with the most general powers... They were concerned to list matters of national importance and to point the direction for public policy. They were content to

leave its detailed formulation to their descendants who would be better able to shape remedies to their own necessities.

-- *Politics and the Constitution*, Vol. 2, pp. 182-3

Regulating interstate commerce without end

In the "ad copy" of 1788, Madison assured us that:

*The powers delegated to the proposed Constitution are few and defined. Those which are to remain in the State government are numerous and indefinite... [Federal] **jurisdiction extends to certain enumerated subjects only**, and leaves to the several States a residuary and inviolable sovereignty over all other subjects.*

-- *The Federalist* #39

In the "ad copy" of 1788, Hamilton assured Americans that:

*The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, **can never be desirable cares of a general Jurisdiction.***

The Federalist #17

Just three years later, however, the *real* truth emerged:

What regulation of [interstate] commerce does not [theoretically] extend to the internal commerce of every state?

--Alexander Hamilton; *Report on Manufactures* (1791)

Advocates for a limited interpretation of the commerce power assert that "commerce" means mere "traffic" and was never meant to encompass industry as whole. I wish this were true:

*...[I]n issue, incident, and implication the concern over commerce runs throughout the debates. Commerce proposals invite difference of opinion. Although detail may be avoided, there is no unanimity as to the concretions which are to be set down in the document. Yet there is everywhere in evidence an intent to endow the general government with the power to formulate a policy for the national economy, a power which is to extend to trade, manufactures, the staples of agriculture, internal improvements, and the creation of corporations. **A broad grant of power was to be given to Congress in a clean-cut clause of the utmost brevity.** If possible, a sin-*

gle key word must here--as elsewhere in the Constitution--be made to tell the story. ...The choice was narrowed to traffic, trade and commerce. Traffic would not do; it was lowly in origin and clearly headed for vulgar verbal company. Trade was too specialized in meaning and too barren in larger implications to serve the occasion. **Commerce excelled in the larger breadth and range, the greater dignity and prestige which attached to it. And commerce alone had competency for so high a verbal duty.**

The ease with which it could be accommodated to...[foreign, Indian, and domestic regulation] attests the catholic character of commerce.

-- Hamilton and Adair; *The Power To Govern* (1937), p. 120

The choice of the word "commerce" over "traffic"--along with the Founding Lawyers' historical agitation for uniform public policy and regulations prove their intent to place the issue of national commerce squarely and wholly under federal jurisdiction. **The interstate/foreign commerce power of Congress is as absolute as the war and treaty-making powers.** The I:8:1 "necessary and proper" clause is the energizing language for commercial regulations, to be utilized for any commercial purpose--even to the point of subsidizing certain industries while penalizing others.

This explains why Madison did not object to the Committee's of Detail exclusion of the proposed I:8 powers to: establish universities and seminaries; charter corporations; grant rewards and immunities for the promotion of new inventions, agriculture and commerce, etc. Madison understood that "commerce" covered them all, so why alarm the States with a more detailed laundry list of federal powers?

The gloves come off

The congressional power to regulate interstate commerce has been stretched to embrace anything which merely "**affects interstate commerce.**" For example, a farmer growing and consuming his own wheat is deemed to "**affect interstate commerce.**" How? By using the aggregation principle--"**Why if millions of farmers did that, it would suppress the wheat market!**" This is the same ridiculous "reasoning" our third-grade teachers used on us--"**If I let you do it, then I'd have to let everyone do it.**"

Theoretically, the "substantial effects" aggregation-based test is boundless. The Supreme Court, amazingly, limited this in the 1995 *Lopez v. U.S.* (55 CCH S.Ct. Bull.) which ruled that the federal law banning guns within 1,000' proximity of schools was an improper use of interstate commerce regulation. In *Lopez*, Justice Thomas observed in his concurring opinion:

When asked at oral argument if there were any limits to the Commerce Clause, the Government was at a loss for words. Tr. of Oral Arg. 5. Likewise, the principal dissent insists that there are limits, but it cannot muster even one example. (at 1781)

The aggregation principle is clever, but has no stopping point. ...But one always can draw the circle broadly enough to cover an activity that, when taken in isolation, would not have substantial effects on [interstate] commerce. Under our [specious] jurisprudence, if Congress passed an omnibus "substantially affects interstate commerce" statute, purporting to regulate every aspect of human existence, the Act would be constitutional. Even though particular sections may govern only trivial activities, the statute in the aggregate regulates matters that substantially affect commerce. (Although I might be willing to return to the original understanding, I recognize that many believe that it is too late in the day to undertake a fundamental reexamination of the past 60 years. Consideration of stare decisis and reliance interests may convince us that we cannot wipe the slate clean.)

Unless the dissenting Justices are willing to repudiate our long-held understanding of the limited nature of federal power, I would think that they too must be willing to reconsider the substantial effects test in a future case. If we wish to be true to a Constitution that does not cede a police power to the Federal Government, our Commerce Clause's boundaries simply cannot be "defined" as being "commensurate with the national needs" or self-consciously intended to let the Federal Government "defend itself against economic forces that Congress decrees inimical or destructive of the national economy." ...Such a formulation of federal power is no test at all: it is a blank check. (at 1783)

According to Hamilton, such encroachment was unlikely. *The Federalist* #83 claimed that the state legislatures would

always be ready to "sound the alarm to the people and not only be the voice, but if necessary the arm, of their discontent." while he cooed in #85 that "We may safely rely on...the State legislatures to erect barriers against the encroachments of the national authority." Such barriers are simply not possible:

*At present, I shall only remark, **that it is difficult to conceive how the state legislatures can, in any case, hold a check over the general legislature, in a constitutional way.***

*... The state legislatures can, in no case, by law, resolution, or otherwise, of right, prevent or impede the general government, from enacting any law, or executing it, which this constitution authorizes them to enact or execute. **If then the state legislatures check the [Congress], it must be by exciting the people to resist constitutional laws.***

...it is unwise in any people, to authorize their rulers to do, what, if done, would prove injurious—I have,...shown, that the representation in the proposed government will be a mere shadow without the substance.

-- "Brutus;" Essay X, 24January 1788

Are there limits to the commerce power?

The only theoretical legal barrier is random "pruning" by the Supreme Court as it strikes down unconstitutional legislation. The Court occasionally so prunes and Congress can try again without any constitutional penalty. **No penalty, no remedy.** (As I'll explain in Chapter 9, *Lopez* was a fluke, and Congress has already replaced the overturned *Gun-Free School Zone Act of 1990* with the *Gun Free School Zone Act of 1996*. I forecast that the 1996 act will be upheld by a 5-4 or 6-3 decision. Some dirt has probably been dug up on a Justice or two. Politics, you know. Stay tuned.)

Even if the Supreme Court *does* return to a commerce-is-merely-traffic interpretation and begins to consistently overrule draconian commerce regulations, Congress can always circumvent it using powers suffering little constitutional oversight: treaty legislation. (Another such power without judicial oversight is municipal legislation for the federal "U.S." in I:8:17 and IV3:2., explained in Chapter 6.)

"all treaties made, or which shall be made..."

Just in case domestic congressional legislation was ever actually overruled by the courts, the Senate was given the "keys to the store"--through treaty power:

[The Congress shall have power to]...define and punish...offences against the laws of nations (treaties).

-- I:8:10; Constitution for the United States of America

*This Constitution, and the laws of the [federal] United States which shall be made in pursuance thereof, **and all treaties made, or which shall be made, under the authority of the [federal] United States, shall be the supreme law of the land;** and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.*

-- VI:2; Constitution for the United States of America

What this means is that the Senate can sign an "Anti-Whistling Treaty" with Portugal, and the feds would suddenly have municipal police power to punish whistling "*offences against the laws of nations*" in your own backyard! No joke! (I wish I *were* kidding about this.) Here follows some legal history on modern municipal enforcement of treaties.

In March 1913 Congress passed the *Migratory Bird Act* which prohibited their hunting. Federal officials in Arkansas arrested Shauver for hunting migratory birds, who moved to dismiss the indictment on the grounds that the 10th Amendment was violated by this Act. In ***United States v. Shauver***, 214 F. 154, 160 (E.D.Ark., 1914) Judge Trieber noted that, under common law, the states essentially owned any birds within their borders and only state legislation could regulate their hunting:

*The court is unable to find any provision in the Constitution authorizing Congress, either expressly or by necessary implication, to protect or regulate the shooting of migratory wild game in a state, **and is therefore forced** (unhappily, it seems) **to the conclusion that the act is unconstitutional.***

An identical case was raised in Kansas the following year--***United States v. McCullagh***, 221 F. 288, 293 D.Kan., 1915) with an identical ruling. The Senate wised up by 1916 and

signed the *Migratory Bird Treaty* with Great Britain and Canada. Thereafter, Congress passed in 1918 another *Migratory Bird Act* to implement the provisions of the treaty, as empowered in 1:8:10.

Testing the new Act, the feds arrested Thompson within Arkansas in 1919 for shooting these migratory birds. Assigned to the same Judge Trieber who ruled in *Shauver*--Thompson thought he was home free and raised the same 10th Amendment argument. But because the Act was now backed by treaty, Thompson's case had a different result:

Law can only prescribe the conduct for the people within the jurisdiction of the lawmaker, while treaties are to affect the rights and privileges of subjects of foreign countries and of our citizens in such countries. Treaties are reciprocal, and in all instances the same rights and privileges are granted to the citizens and subjects of each of the contracting...countries.
{at 258}

To subject the treaty power to all the limitations of Congress in enacting the laws for the regulations of internal affairs would in effect prevent the exercise of many of the most important governmental functions of this nation, in its intercourse and relations with foreign nations, and for the protection of our citizens in foreign countries. The states of the Union may enact all laws necessary for their local affairs, not prohibited by the national or their own Constitution; but they are expressly prohibited from entering into treaties, alliances, or confederations with other nations. If, therefore, the national government is also prohibited from exercising the treaty power, affecting matters which for internal purposes belong exclusively to the states, how can a citizen be protected in matters of that nature when they arise in foreign countries...
{at 263}

Even In matters of purely local nature, Congress, If the Constitution grants it plenary powers [by treaty] over the subject, may exercise what is akin to the police power, a power ordinarily reserved to the states. (at 264)

-- *United States v. Thompson*, 258 F.257 (E.D.Ark., 1919)

Through treaties, Congress could assume police power within the states. A similar case in Missouri (*United States v. Samples*, 258 F. 479 (W.D.Mo., 1919)) ultimately reached the Supreme Court for an identical conclusion (see *Missouri v.*

Holland, 252 US 416 (1920)), which stated, "No doubt the great body of private relations usually fall within the control of the State, but a treaty may override its power." See also **United States v. Selkirk**, 258 F. 775 (S.D.Tex., 1919); **United States v. Rockefeller**, 260 F. 346 (D.Mon., 1919); and **United States v. Lumpkin**, 276 F. 580 (N.D.Cal., 1921).

Similarly, the Senate adopted the 1912 *International Opium Convention* and supplemented it with a similar convention in 1931 (outlawing hemp), which was later implemented by appropriate legislation. In **Stutz v. Bureau of Narcotics**, 56 F.Supp. 810,813 (N.D.Cal., 1944), some poppy growers used the 10th Amendment argument. In rejecting such argument and holding that the anti-drug act (based on two treaties) applied within the states, the court ruled:

The competency of the [federal] United States to enter into treaty stipulations with foreign powers designed to establish, through appropriate legislation, an internationally effective system of control over the production and distribution of habit forming drugs is not questioned. The obligations of the United States incurred as a party to the two Conventions heretofore mentioned were lawfully undertaken in the proper exercise of its treaty making power. And Congress is constitutionally empowered to enact whatever legislation is necessary and proper (here we go...) for carrying into execution the treaty making power of the United States.

If anything, the courts are pointing Congress to the treaty "Silver Bullet." **Hoffman Homes, Inc. v. Administrator, E.P.A.**, 961 F.2d 1310 (7th Cir., 1992) plainly informed federal agencies that if they want municipal power, they should secure legislation which is treaty based. The EPA knows this, as most environmental legislation is now treaty based, and thus enforceable ("wetlands" violations, etc.).

Before WWI, we had signed less than two-dozen treaties. **Today, we are bound by over 1,000!** I haven't read them all, have you? Who knows *what* federal legislation, based on some arcane treaty with Peru, is looming to snare us at home. (And I'm not even mentioning the 6,000+ "executive agreements" signed by our Presidents!)

You're living under the UN charter!

Even the United Nations charter is a treaty! (See *Balfour, Guthrie & Co. v. United States*, 90 F.Supp. 831 (N.D.Cal., 1950); and *Sei Fujii v. State*, 242 P.2d 617 (Cal., 1952)). UN Conventions may be enforced on American soil **as if American law!** (My thanks to attorney Larry Becraft for this information!)

Under the *UN Convention on Rights of the Child*, spanking your own child is "*cruelty*" and home-schooling is "*inadequate*" education. **You can lose your children and be jailed!** (The goal is to eliminate all home/private/religious schooling and turn our children into UN "blue shirts" who spy on their parents for "anti-State activity.")

American gun confiscation will be authorized under a UN "Anti-Gun-running" convention (already proposed), since Congress has neither the boldness nor the unquestionable constitutional latitude to enact such legislation without hiding behind the UN. Passing a nasty convention is one thing; *enforcing* it is another. The UN "Smurfs" will have problems.

Are there any limits on treaty power?

While there are *some* decisions holding that treaty power does *not* authorize what the Constitution itself explicitly forbids (see *Amaya v. Stanolind Oil & Gas Co.*, 158 F.2d 554 (5th Cir., 1946); *Farmer v. Rountree*, 149 F.Supp. 327 (M.D.Tenn., 1956); and *Pierre v. Eastern Air Lines, Inc.*, 152 F.Supp. 486 (D.N.J., 1957))--**there have been no definitive limitations on this awesome power.**

Some researchers quote *Reid v. Covert*, 354 US 1, at 267 (1956) as an example of judicial limitation:

...It would be manifestly contrary to the objectives of those who created the Constitution, as well as those who were responsible for the Bill of Rights--let alone alien to our entire constitutional history and tradition--to construe Article VI as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions. In effect, such construction would permit amendment of that document in a manner not sanctioned by Article V. The (explicit) prohibitions of the Constitution were designed to apply to all branches of the National Government

and they cannot be nullified by the Executive and the Senate combined.

However, upon close study, **Reid** did *not* place any *real* limits on treaty power, and simply reaffirmed **Geofroy v. Rigg8**, 133 US 258. While there *are* constitutional limitations upon treaty power, such are puny. According to **Reid**, treaties *will* be upheld so long as they do *not* try to authorize:

- something the Constitution *explicitly* forbids, or
- a change in the character of the government, or
- a partition of any state without its consent.

Treaties do not and cannot "supercede" the Constitution but *are* (along with Congressional legislation made pursuant to the Constitution) on equal footing *with* the Constitution. The primary Constitutional doorway to oppression is the "*necessary and proper*" clause, utilized by treaties and legislation alike. In most areas, the feds can simply use legislation to accomplish their goals, but sometimes the international component of a treaty will be required to gain the courts' approval (as in the 1919 **U.S. v. Thompson**).

The "*necessary and proper*" clause is theoretically boundless on purpose. This clause coupled with treaty power gives the feds municipal police power over nearly any conceivable area.

Today, Congress's legislative powers are very liberally construed. So long as its actions do not violate specific constitutional rights of individuals, there is little that Congress wants to do that it lacks constitutional authority to do.

--J.W. Peltason; *Understanding the Constitution*, 7th ed.

Patrick Henry anticipated the nightmare of sellout treaties in his 7 June 1788 speech to the Virginia ratifying convention:

The Senate, by making treaties may destroy your liberty and laws for [lack] of responsibility. Two-thirds of those that shall happen to be present, can, with the President, make treaties, that shall be the supreme law of the land: They may make the most ruinous treaties; and yet there is no punishment for them. (Because only the Senate may try the President or a Senator! KWR)

Well, what did "Publius" have to say about this? Read John Jay's *The Federalist* #64:

It will not be in the power of the President and Senate to make any treaties by which they and their families and estates will not be equally bound and affected with the rest of the community; and, having no private interests distinct from that of the nation, they will be under no temptations to neglect the latter. (Puhleeze! Show me a President or a Senator having "no private interests." KWR)

As to corruption, the case is not supposable. He must either have been very unfortunate in his intercourse with the world, or possess a heart very susceptible of such impressions, who can think it probable that the President and two thirds of the Senate will ever be capable of such unworthy conduct. **The idea is too gross and too invidious to be entertained.** (!)

With respect to their responsibility, it is difficult to conceive how it could be increased. Every consideration that can influence the human mind, such as honor, oaths, reputations, conscience, the love of country, and family affections and attachments, afford security for their fidelity. In short, as the Constitution has taken the utmost care that they shall be men of talents, and integrity, we have reason to be persuaded that the treaties they make will be as advantageous as, all circumstances considered, could be made; and so far as the fear of punishment and disgrace can operate, that motive to good behavior is amply afforded by the articles on the subject of impeachments. (Ha! KWR)

His sputtering outrage at the mere hint of theoretical political corruption is either so naive to be comical, or so devious to be despicable. "Why, we're demigods--corrupting us is no more possible than corrupting Jesus. The very idea is too gross to be entertained!" Drivel.

If the Senate was to be so pure, without even a hint of corruption--then **why not let the House be the Senate's judge?** How is it even conceivable that "motive to good behavior is amply provided by the articles...of impeachments" if the Senators are their own judges? **Where is the check or the balance in that arrangement?**

Jay, unwittingly, spelled out the *exact flaw*: reliance on influencing the Senators themselves. **Were we not to have a rule of law, and not a rule of men?**

Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequence loss of liberty. I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt.

-- Patrick Henry, to the Virginia ratifying assembly (1788)

Through the cowardly back-door of treaties, the feds acquired municipal power over our lives--power they didn't have the *guts* to demand in the *open*! Not only that, Congress (until 1953) used to pass treaties with a mere handful of members present. This was (and still is) possible through the Founding Lawyers' shrewd planning:

Article II, Section 2, of the Constitution requires that treaties receive the support of "two-thirds of the Senators present." A roll-call/ vote is not necessary (as for veto overrides), nor is there even a requirement that a quorum be present. In 1952, with two Senators on the floor, the Senate gave its advice and consent to the ratification of three treaties. One of the Senators did not even vote. The other, the presiding officer, cast an "aye" vote and stated that "two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the convention is ratified." A year later Senate Majority Leader Knowland announced that future treaties would be preceded by a quorum call and subjected to "a yea-and-nay vote, at least on the first of a series of treaties." *That remains the general [voluntary] practice.*

-- Louis Fisher; *Constitutional Conflicts between Congress and the President* (1985), p. 253

So, to ratify a treaty only requires two-thirds of the *quorum* (51), which is 34. As few as 35 people (34 Senators and the President) can bind us internationally, as well as domestically, with oppressive treaties. However, Congress may at any time suspend its own voluntary practice of a quorum call and return to the Constitution's wording of "*two-thirds of the Senators present*"--as in the above obscene example of 1952.

Another pernicious use of treaties is to bypass the constitutional authority of the House. When the Senate plotted

to give away U.S. territory (the Panama Canal Zone) without the consent of the House (as required in IV:3:2), the D.C. Circuit held in **Edwards v. Carter**, 580 F.2d 1055, that a treaty is constitutionally authorized to dispose of federal property.

The Presidency even found a way to effectively make treaties without the required participation of the Senate:

*As a way of avoiding congressional action on a treaty or an executive agreement, the Carter administration discovered a third option: **parallel policy statements**. On September 23, 1977, ten days prior to the expiration of SALT I, the United States and the Soviet Union issued statements that they would adhere to SALT I ceilings. Since the statements were issued separately and unilaterally, the State Department argued that they did not constitute an "agreement" and therefore required no action by Congress.*

*-- Louis Fisher; **Constitutional Conflicts between Congress and the President** (1985), p. 278*

Some ideas on overturning ruinous treaties

The Pennsylvania Dissenting Minority of 1787 offered a corrective amendment:

*13. That no treaty which shall be directly opposed to the existing laws of the United States in Congress assembled, shall be valid until such laws shall be repealed, or made comfortable to such treaty; **neither shall any treaties be valid which are In contradiction to the constitution of the United States, or the constitutions of the several states.***

That, along with a required two-thirds majority *by the whole of both houses and three-fourths of the state legislatures*, would have likely prevented treasonous UN-type treaties. If treaties can, for practical purposes, amend the Constitution, then let's make them subject to the strict terms of Article V.

Well, it's no use dreaming--what actual recourse have we *today*? Madison in #43 and Jay in #64 offered two ideas:

*It is an established doctrine...of treaties that all the articles are mutually conditions of each other; that a breach of any one article is a breach of the whole treaty; **and that a breach, committed by either of the parties, absolves the others, and authorizes them, if they please, to pronounce the compact violated and void.*** (Madison in #43)

...if it (a treaty born of political corruption) should ever happen, the treaty so ordained from us would, like all other fraudulent contracts, be null and void by the laws of nations. (Jay in #64)

So, all the people have to do is prove either a foreign breach of treaty, or its domestic ratification to be corruptibly based. (Not that either would ever be easy, like catching birds by sprinkling salt on their tailfeathers.)

The only other solutions would be a Senate repeal of an unpopular treaty (fat chance!), or a Federal court ruling such treaty unconstitutional. Would the Supreme Court ever intervene and reverse a treaty? To my knowledge, it's never happened. Not only because *they don't have to*, but because the judiciary *benefits* by a powerful Federal Government.

Justices decide on their own federal brethren

Quis custodiet ipsos custodes?

(Who will guard the guardians themselves?)

--Juvenal, VI. 347-8

I deem it indispensable to the continuance of this government that [the opinions of the Supreme Court] should be submitted to some practical and impartial control; and this, to be impartial, must be compounded of a mixture of state and federal authorities...

--Thomas Jefferson; Bergh 1:120

First of all, Supreme Court Justices are appointed for life, and their salaries are inviolate. Once in, they're in.

The vast political power now asserted and exercised by the court to set aside public policies, after their full determination by Congress, can not safely be left in the hands of any body of men, without supervision or control by any other authority whatever. If the President errs, his mandate expires in four years, and his party as well as himself is accountable to the people at the ballot box for his stewardship.

If Members of Congress err, they, too, must account to their constituents. But the Federal Judiciary hold power for life and, though popular sentiment should change the entire personnel of the other two departments of government, a whole generation must pass away before the people could get control of the judiciary, which possesses an

Irresponsible and unrestricted veto upon the action of the other two departments--irresponsible because impeachment has become impossible, and if it were possible it could not be invoked as to erroneous decisions unless corruption were shown.

--N.C. Chief Justice Walter Clark (2 April 1906), reprinted in the *Congressional Record*, 31 July 1966

They are responsible to nobody. That's bad enough, but it gets worse. Because only the Supreme Court may decide if the Congress or the President have overstepped their constitutional bounds, *there exists no final check or balance.* It's a family of bullies promising to stop each other from beating you up. **Remember, the three separated branches are still brothers in the same federal 'family.'**" Fed "blood" is thicker than the "water" of the states or the people.

By allowing the feds themselves to decide what is unconstitutional, **the feds are permitted to serve as their own custodians. Is this liberty?** (Are students allowed to grade each other's tests?) There is neither review of, nor appeal from, a Supreme Court decision. There is neither accountability to, nor ultimate control by, the states, much less the people--and **it was designed that way!**

Supreme Court "interprets" Constitution without any check or balance

Now, for the kicker: the Supreme Court may lawfully "interpret" the spirit of the Constitution:

The judicial power shall extend to ALL cases, in law AND EQUITY, arising under this Constitution, the laws of the United States, and treaties made,... [and] to controversies to which the United States shall be a party;... (capitalized emphasis added)

-- III:2:1; Constitution for the United States of America

The judicial are not only to decide questions arising upon the meaning of the constitution in law, but also in equity.

By this ("in equity") **they are empowered, to explain the constitution according to the reasoning spirit of it, without being confined to the words or letter.**

"From this method of interpreting laws," says Blackstone, "by the reason of them, **arise what we call equity;**" which is defined by Grotius, "**the correction of that, wherein the law, by reason of its universality, is deficient;**" for since in laws all cases cannot be foreseen, or expressed, it is necessary, that when the decrees of the laws cannot be applied to particular cases, there should some where be a power vested of defining those circumstances, which had they been foreseen the legislator would have expressed; and these are the cases, which according to Grotius, "lex non exacte definit, sed arbitrio boni viri permittet."

(Grotius continues,...) "**That equity**, thus depending essentially upon each individual case, **there can be no established rules and fixed principles of equity laid down**, without destroying its very essence, and reducing it to a positive law."

From these remarks, the authority and business of the courts of law, under this [equity] clause, may be understood.

They will give the sense of every article of the constitution, that may from time to time come before them. **And in their decisions they will not confine themselves to any fixed or established rules, but w^{ll} determine, according to what appears to them, the reason and spirit of the constitution.**

-- "Brutus;" Essay XI, 31 January 1788

The "equity" clause was not in the 6 August draft. On 27 August, W.S. Johnson (later a member of the crucial Committee of Style) moved that "*both in Law and Equity*" be added. Jefferson became painfully aware of this enormous power of constitutional interpretation after the 1803 *Marbury v. Madison* decision, and wrote to a fellow opponent of the federal judiciary, Judge Spencer Roane of Virginia, on 6 September 1819--just after *McCulloch v. Maryland*:

...after twenty years... we find the Judiciary on **every** occasion, st^{ll} driving us into consolidation.

...The Consttution,...Is a mere thing of wax In the hands of the Judiciary, which they may twist and shape into any form they please. It should be remembered, as an axiom of eternal truth in politics, that whatever power In any government is independent, is absolute also: in theory

only, at first, while the spirit of the people is up, but in practice, as fast as that [public vigilance] relaxes.

1790's Republicans had argued that the Court's right to judge the unconstitutionality of Congressional acts extended only so far as the relationships between the three branches of the Federal Government, and *not* to matters of power distribution between the feds and the states. To Jefferson, even this conceded too much: *each* of the three branches should have *equal* authority to decide matters of constitutionality (an opinion echoed by Andrew Jackson in his courageous 1832 veto of the recharter of the Bank of the United States).

Regardless what Jefferson or the Republicans thought, the Supreme Court could not be *de facto* challenged. In 1821, five years before his death, Jefferson sadly reflected:

*It has long...been my opinion...that the germ of dissolution of our federal government is in the constitution of the federal judiciary; an irresponsible body (for impeachment is scarcely a scarecrow), **working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction, until all shall be usurped from the states, and the government of all be consolidated into one.** To this I am opposed, because when all government, ...shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated. **It will be as in Europe, where every man must be either pike or gudgeon, hammer or anvil.** (Bergh 15:331)*

*Our government is now taking so steady a course as to show by what road it will pass to destruction, to wit, **by consolidation first, and then corruption, its necessary consequence.** The engine of consolidation will be the federal judiciary; the two other branches the corrupting and corrupted instruments. (Bergh 15:341)*

In 1822, Jefferson continued:

*If ever this vast country is brought under a single government, it will be one of the most extensive corruption, indifferent and incapable of a wholesome care over so wide a spread of surface. **This will not be borne, and you will have to***

choose between reformation and revolution. *If I know the spirit of this country, the one or the other is inevitable. Before the canker is become inveterate, before its venom has reached so much of the body politic as to get beyond control, remedy should be applied.* (Bergh 15:388)

The canker has become inveterate, the venom ubiquitous. The judiciary is beyond control. I'll discuss remedies later.

[Actual power has shifted from] *elected lawmakers to unelected judges, often appointed for life and beyond recall by American voters. By this method, any laws seriously interfering with the imperial agenda are being declared "unconstitutional."* There is one other important historical point to keep in mind concerning democracy. The essence of democracy is that the majority rules, that the will of the majority can be expressed as laws that shape society. Therefore in theory, and usually in fact, democratic societies are relatively stable because most of the people are content with the way society is ordered, and can make necessary adjustments as conditions change. In America, our democratic Constitution provided for elected representatives. Even though these representatives were mostly members of the oligarchy, or were subject to the bribery of the monied oligarchy, the system was still essentially democratic **because the will of the oligarchy and the will of the people were relatively close.** Nowadays, the American oligarchy is being subsumed in the international jet set oligarchy, and the working class is being subsumed into the labor pool of third-world peasantry.

--Thomas W. Chittum; *Civil War Two* (1996), p. 142

The facility for quiet, judicial tyranny was the key to federalism. The Founding Lawyers knew that, amongst the heated ratification debates over legislative and executive provisions, future Supreme Court mischief would be harder for the anti-federalists to articulately conceptualize. Besides,

The judges, Hamilton assured the ratifying states, would have neither "force nor will"; able to "take no active resolution whatever" in enforcing the Constitution, their power would be "next to nothing." "Judicial power," Marshall reiterated, "has no existence. Courts...can will nothing."

--Lino A. Graglia; professor of law at U.T. (1986)

Since Article III was an incomplete judiciary to be filled in by Congress and the President at some later date, there never *was* any *real* separation of powers, as the courts are mere creatures of the legislative and executive branches.

Where are the checks in the Constitution? There will be no checks, no real balances, in this government. What can avail your specious, imaginary balances, your rope-dancing, chain-rattling, ridiculous ideal checks and contrivances?

-- Patrick Henry, to the Virginia ratifying assembly (1788)

The anti-federalists were brilliantly misdirected by federalist magicians to the comparatively picayune right hand of Congressional elections and Presidential powers, while the vague judicial left hand was elegantly poised to pickpocket the nation of its Liberty.

States and people have no *real* recourse

Congressional legislation, the core federal power, was explained by Hamilton in *The Federalist* #33:

... Who is to judge of the necessity and propriety of the laws to be passed for executing the powers of the Union? ...the national government, like every other (But I thought our "federal" government was not quite a "national" one. KWR), *must judge,... of the proper exercise of its powers, and its constituents [must judge of the laws' propriety]. If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the Injury done to the Constitution as the exigency may suggest and prudence Justify.*

Well, just what did "Publius" see as the people's recourse? Madison offers little in #44:

...in the last resort a remedy must be obtained from the people, who can, by the election of more faithful representatives [in the House], annul the acts of the usurpers.

Uh, huh--right! *When has a Congressional election ever really annulled the acts of the usurpers?* Until 1913, the only body directly elected by the people was the House, which

could not (and cannot): try officials, confirm Presidential appointments to the Supreme Court, or vote on treaties. The House has little real power, which is why the people were *allowed* to choose its members. Electing a more faithful House can do little to "*annul the acts of the usurpers.*"

In his own 16 April 1787 letter to Washington (a month *before* the Federal Convention), Madison already knew how to dilute the effect of senatorial elections by having Senators "*go out in such rotation as always to leave in office a large majority of old members.*" This shrewd idea naturally found its way into the Constitution: Senatorial elections affect only one-third of the members at a time, leaving in office the "*large majority*" of two-thirds. Thus, no single election can ever change the general tenor of the entire Senate. *The Senate is a rigged deck.* There's no term limitation (they can't be forced to quit) and only the Senate may try Senators.

Constitutional amendments difficult

Since two-thirds of both Houses must approve any proposed constitutional amendment, just 34 Senators or 146 Congressmen may block any reduction of government authority. (I'll discuss this fully in Chapter 10.)

Well, if Constitutional amendments are out of the states' hands, what about the threat of armed pressure? Sorry, but that was already anticipated by the federalists.

Feds control both the military *and* militias!

[The Congress shall have power to]...*provide for the calling forth the militia to execute the (federal) laws of the Union, suppress insurrections, and repel invasions.*

[...and power to]...*provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the [federal] United States, reserving [only] to the states, respectively, the appointment of officers, and the authority of training the militia to the discipline prescribed by Congress.*

--I:8:15-16; Constitution for the United States of America

The President shall be commander-in-chief...of the militia of the several States when called into the actual service of the [federal] United States...

-- II:2:1; Constitution for the United States of America

Predictably, collective armed force went solely in the President's hands to protect the federal government from irate Citizens. Hamilton covered this in *The Federalist* #85, boasting of the "*restraints which [the Constitution] will impose on local factions and insurrections,...*"

Please consider very carefully the conceptual *relativity* of an insurrection: **A revolution to the oppressed is an "insurrection" to the oppressors.** The federalists were pathologically fearful of insurrections, probably out of concern that the people would one day wake up to their being controlled. Jefferson, however, wrote (regarding Shay's Rebellion of 1787) that regular revolution was a good thing: "*God forbid we should ever be twenty years without...a rebellion.*"; and that "*The tree of Liberty must be refreshed from time to time with the blood of patriots and tyrants.*" Revolts demonstrated vigilant intolerance of oppression, and kept the tyrants at bay.

The flashfire 1786 Shay's Rebellion in Massachusetts totally unsettled the federalists. "Insurrections" thereafter were to be squashed at all costs. The first post-Constitution insurrection was the 1794 Whiskey Rebellion, a long-festering revolt over Hamilton's 1790 whiskey excise. It was put down by 13,000 militiamen under Washington, accompanied by, naturally, Hamilton. The second rebellion was the Civil War. So far, the feds are 2 and 0.

...Should the power of these Judiciaries be incompetent to carry [out] this extensive plan..., other,... Engines of power are supplied by the standing Army--unlimited as to number or its duration, in addition to this Government has the entire Command of the Militia, and may call the whole Militia of any State into Action, a power, which it was vainly urged ought never to exceed a certain proportion. By organizing the Militia Congress have taken the whole power from the State Governments; and by neglecting to do it and increasing the

Standing Army, their power will increase by those very means that will be adopted...as an ease to the People.

-- Conventioneer Luther Martin, before the Maryland House; 29 November 1787

...it appears that the Congress under this constitution will not possess the confidence and respect of the great body of the people, ...[Congressional laws] must be executed by the aid of a numerous standing army, which would be inconsistent with every idea of liberty; for the same force that may be employed to compel obedience to good laws, might and probably would be used to wrest from the people their constitutional liberties. The framers of the constitution appear to have been aware of this great deficiency; to have been sensible that no dependence could be placed on the people for their support: but on the contrary, that the government must be executed by force. They have therefore made a provision for this purpose in a permanent STANDING ARMY, and a MILITIA that may be subjected to as strict discipline and government.

...the absolute command of Congress over the militia may be destructive of public liberty; for under the guidance of an arbitrary government, they may be made the unwilling Instruments of tyranny. The militia of Pennsylvania may be marched to New England or Virginia to quell an insurrection occasioned by the most galling oppression, and aided by a standing army, they will no doubt be successful in subduing their liberty and independency;... Thus may the militia be made the instruments of crushing the last efforts of expiring liberty, of riveting the chains of despotism on their fellow citizens, and on one another. This power can be exercised not only without violating the constitution, but in strict conformity with It; it is calculated for this express purpose, and will doubtless be executed accordingly.

-- Dissenting Address of the Pennsylvania Convention Minority; 18 December 1787

My great objection to this Government is, that It does not leave us the means of defending our rights; or, of waging war against tyrants; ...Have we the means of resisting disciplined armies, when our only defence, the militia, is put into the hands of Congress?

... we should have *fine times indeed, if to punish tyrants, it were only sufficient to assemble the people.* Your arms wherewith you could defend yourselves, are gone;... **Did you ever read of any revolution in any nation, brought about by the punishment of those in power, inflicted by those who had no power at all?** You read of a riot act in a country which is called one of the freest in the world, where a few neighbors cannot assemble without the risk of being shot by a hired soldiery, the engines of despotism. **We may see such an act in America.** A standing army we shall have also, to execute the execrable commands of tyranny: **And how are you to punish them? Will you order them to be punished? Who shall obey these orders? Will your Mace-bearer be a match for a disciplined regiment?** ...What resistance could be made? The attempt would be madness. You will find all the [military] strength of this country in the hands of your enemies: Those garrisons will naturally be the strongest places in the country. Your militia is given up to Congress also in another part of this plan: They will therefore act as they think proper: All power will be in their possession: **You cannot force them to receive their punishment:...** **Will the oppressor** [voluntarily] **let go the oppressed? Was there ever an instance?** Can the annals of mankind exhibit one single example, where rulers, overcharged with power, willingly let go the oppressed?...

-- Patrick Henry; speech of 5 June 1788 to the Virginia Ratifying Convention

The bitter truth of it all is this: the states are subject to the laws of Congress; the Supreme Court can (and will nearly always) rule *against* a state's complaint of Federal encroachment; and since the feds control both the military and the militia, *there's little the states or the people can do about it!* **This should now be acutely obvious to all.**

Note that the militia would not be able to carry out its primary duty of protecting "the security of a free State" (from the feds) if it submitted to being called "to execute the laws of the Union" and to "suppress ~~ris~~urrections.." (at 35).

The militia was not to be deployed by the central government, which is itself...a threat to [our] liberties...

[To do so] would render the states defenseless, and they would be at the mercy of the federal government. The states created the federal government so that it could

serve them, not the other way around.... The army and navy commanded by the federal government were intended to protect us from an outside force. The states and their militia were intended to protect us from tyranny and dangers from within. As a last resort from foreign dangers, the militias within each state would protect its own people. (at 36)

-- Ralph Boryszewski; *The Constitution That Never Was*

Never trust a loaded government you can't shoot back at.

-- Boston T. Party

Executive orders

[The President] shall...recommend to [Congress]...such measures as he shall judge necessary and expedient;...

-- II:3:2; Constitution for the U.S.A.

The President publishes his recommendations in the form of "executive orders" in the *Federal Register* and if Congress doesn't disapprove of them, they then acquire the force of law. (Never mind that only the legislative branch of Congress is supposed to make law.) There are currently on file thousands of enforceable executive orders which provide for the nationalization of the economy, the confiscation of "excess" resources (food, fuel, houses, etc.) in private hands, and the prohibition of guns and radios. Nixon's executive orders for wage and price controls in the early 1970's were the portent of things to come. Stay tuned.

Other misc. details of the rigged Constitution

[N]othing is more certain than that the forms of liberty may be retained when the substance is gone. In government, as well as in religion, "the letter killeth, but the spirit giveth life." (2 Cor. 3:6)

-- Conventioneer John Dickinson; *The Political Writings of John Dickinson* (1801), p. 199

I could write at length on the following items, but shall merely list them with brief comments, as their cause for complaint are by now rather clear.

Liberty was not the *raison d'être* of the Constitution.

The admitted goal was nationalist power, at the expense of state autonomy and individual liberty.

The Government requires honorable officeholders to work.

The dishonorable were provided too many irresistible avenues for expansion. Corruption is encouraged.

Full consent of the governed was reduced to mere "due process."

This is the heart of "democracy"--mob ability to outvote the individual and steal his property under the "law."

Property rights are subordinate to the will of government.

Ever heard of "eminent domain?" The "justness" of the "compensation" is decided by the government.

Writ of habeas corpus is merely a suspendable privilege.

Jefferson was particularly upset with this. The 1:9:2 "except-in-an-emergency" clause was the basis for future draconian "executive orders" and "war powers acts."

No mandatory rotation of Congress to private station.

The Jeffersonian ideal of Citizen Politician was lost, and with it the private interest of representatives.

Congress has no local interest.

And why *should* they? Barring convictions of crimes while in office, they can remain in Congress *for life*.

The unlimited power of Congress over their own salaries.

It's nice to be able to fill in somebody *else's* blank check.

Congressional power to raise armies without limits.

Standing armies are back--this time with better toys.

Congressionally established tribunals without juries.

Ever been to "Tax Court" or an OSHA hearing?

Congress may hold secret its deliberations.

Oppressive laws are hidden under "national security."

Congress is inclined to remove itself from scrutiny whenever the public gets too interested in its affairs. ... The House Appropriations Committee held 92 percent of its meetings behind closed doors [in 1971]. Most other committees held at least one-third of their sessions in secret.

Sometimes secrecy envelops the entire lawmaking process: a (1972) bill cutting corporate taxes by \$7.3 billion was (a) drawn up by the House Ways and Means Committee in three days of secret sessions, (b) passed by the House under a closed rule after only one hour of debate with (c) about thirty members of the House present for the (d) non-roll-

call vote. Under such conditions even the highly motivated muckraker, experienced journalist, or academic specialist has difficulty ascertaining what is going on.

-- Michael Parenti; *Democracy for the Few*, 2nd ed., p. 240-1

Congressmen may exempt themselves from their own Acts.

Social Security Act. Civil Rights Act. Etc. Neat!

Congressional votes may be voice made without record.

Nothing like cozy anonymity to conceal one's support of tyranny. Requires 81+⁰% vote.

Acts "*shall not be questioned*" (held to legal responsibility) outside Congress.

Privileged immunity for Congressman.

Congress controls the Supreme Court

They control the number of Justices, their salaries, and the Court's appellate jurisdiction.

Commerce clause easily abused with help of Supreme Court.

This was largely unforeseen by anti-federalists, but a primary source of tyranny today.

The Vice President is head of the Senate.

Violates separation of powers--mixes executive with leg.

The Presidency has almost total executive powers.

Such as: war time "*executive orders*"--*rarely* rescinded in peacetime. Read *The Report From Iron Mountain* on this.

Presidential pardons likely to be abused.

Such as: Ford's pardon of Nixon. Others to follow...

"But the *feds* can do it!"

Finally, the feds were granted unfair privileges, which should have been denied (as the states were denied).

The states cannot impair contracts, but the feds can...and *do*.

The feds especially impair gold/silver payment clauses.

The states cannot grant titles of nobility, but the feds can...and *do*.

The Nationalists were generally aristocrats at heart.

The states can accept only gold/silver, but the feds can...and *do* accept *anything*.

Namely, their own corporate, monopolistic "Federal Reserve Notes"--while *outlawing* gold and silver!

The states cannot emit paper bills of credit, *and neither can the feds... but they do.*

While the 6 August draft of the Constitution specifically allowed Congress this power, it was removed--probably as being too inflammatory. **Why be clear and alarming, when one may be vague and comforting?** I've read nothing by the federalists claiming that the Federal Government would never emit paper currency. Such a power, *though removed explicitly*, was to be embraced *implicitly* through the implied powers so artfully employed by Hamilton in the 1790's.

Some thoughts on the Constitution in general

So, if you still *believe* that the Constitution was conceived, planned, debated, created, and sold as a bulwark of Liberty, I ask: **on what evidence? There is little in:**

- X the nationalist motivations of its Framers,
- X the secrecy of its Federal Convention,
- ,c the guile of its paper-handcuff "*checks and balances*,"
- ,c the interpretive powers given the Supreme Court,
- X the magnitude of implied powers available,
- X the fraud, mischief, and deviousness of its promotion,
- ,c the slanderous abuse of sincere anti-federalists,
- ,c the deceitful assuagement of the people,
- ,c the forced, shrill haste of its ratification schedule,
- X the diluted, grudging, perfunctory Bill of Rights,
- ,c the brute extortion of sovereign Rhode Island,
- X and finally, in the 208+ year history of its execution...

to prove that Liberty was the goal. Americans didn't even know what went *on* in the Convention until 53 years later, when Madison's notes were published in 1840! In Essay VII of *No Treason* (1870) Lysander Spooner demanded open and honest signatory government:

If any considerable number of the people believe the Constitution to be good, why not sign it themselves, and make laws for, and administer them upon, each other;

*leaving all other persons (who do not interfere with them) in peace? Until they have tried the experiment for themselves, how can they have the face to impose the Constitution upon, or even to recommend it to, others? Plainly the reason for such absurd and inconsistent conduct is that they want the Constitution, not solely for any honest or legitimate use it can be of to themselves or others, **but for the dishonest and illegitimate power it gives them over the persons and properties of others.***

We have only seen the State swell up and the people diminish. This is Liberty?

*Single acts of tyranny may be ascribed to the accidental opinion of a day; but a series of oppressions, begun at a distinguished period, and pursued unalterably through every change of ministers (administrations), **too plainly proves a deliberate, systematical plan of reducing us to slavery.***

-- Thomas Jefferson

*The Anti-Federalists believed that the federal government could best contribute to American liberty by keeping the demands on citizens to a minimum--by knowing when to leave the people alone. Patrick Henry, Melancton Smith, and their allies commonly referred to the following biblical passage as representing their social ideal: **"But they shall sit every man under his vine and under his fig tree, and none shall make them afraid."** (Micah 4:4) In the course of American history [under the Constitution], **that vision has become ever more a dream than a reality.***

-- David E. Narrett; *A Zeal for Liberty*, from *Essays on Liberty and Federalism* (1988), p. 82

The most intractable anti-federalist of 1788 warned that:

[A future Congress] less virtuous than the present [might] extend their civil list, increase the salaries of their officers, multiply pensioners and placemen (bureaucrats), keep up even in times of peace...useless fleets and armies, [and] engage in unnecessary and ruinous wars.

-- Abraham Yates; *Political Papers*, p. 8

Has not exactly this happened? Is this Freedom? No--it is the American Mythology of Freedom. Remember, Lysander Spooner wrote that the Constitution, **"..has either autho-**

rized such a government as we have had, or has been powerless to prevent it."

"Oh, these bad laws are only 'constitutional' because autocratic Supreme Court Justices say they are!", some would reply. Yes, but the Framers *allowed* the Supreme Court, *without any check or balance*, to approve of federal encroachment on the states and on the people. **There is no constitutional avenue for overturning a despotic Supreme Court ruling--and it was *designed* that way.** The feds are allowed to "monitor" themselves, like students grading their own tests.

Had the Framers wanted to *really* check the Supreme Court, they'd have at least created an appellate court (activated by petition) staffed by justices from the *states*. Had the Framers wanted to *really* hamstring Congress and the President, they would have given the people a "no-confidence" device to remove traitorous officials in midterm. ***Had they wanted to, the Framers could have easily confined the Federal Government as the Swiss did--but they didn't want to.*** In their opinion, a strong central government--independent of real popular approval--was best for America. The Framers left the federal fleas in control of their own flea powder, and that's why we have such an unchallengeable government today.

In his farewell address of 1796, President Washington admitted, *"that experience is the surest standard by which to test the real tendency of the existing constitution..."* Hamilton himself remarked that there would be just cause for rejecting the Constitution if it would enable the Federal Government to *"alter, or abrogate...[a state's] civil and criminal institutions [or] penetrate the recesses of domestic life, and control, ...the private conduct of individuals."*

The anti-federalists foresaw today's tyranny

Most of these potential problems were divined and discussed, to little avail. Convention delegate (and non-signer) Edmund Randolph outlined things well on 10 October 1787:

I hope that [Virginia] will be seconded: 1. In causing all ambiguities of expression to be precisely explained. 2. In

rendering the president ineligible after a given number of years. 3. In taking from him the power of nominating to the judiciary offices, or of filling up vacancies which may there happen during the recess of the senate, by granting commissions which shall expire at the end of their next sessions. 4. In taking from him the power of pardoning for treason at least before conviction. **5. In drawing a line between the powers of congress and individual States;** and in defining the former, so as to leave no clashing of jurisdictions nor dangerous disputes; and to prevent the one from being swallowed up by the other, **under cover of general words, and implication.** 6. **In abridging the power of the senate to make treaties supreme law of the land.** 7. In incapacitating the congress to determine their own salaries. **And 8. In limiting and defining the judicial power.**

-- to the Speaker of the Virginia House of Delegates

Astonishingly, the likelihood of an supreme national government was understood even in 1788:

*That investigation into the nature and construction of the new constitution, which the conspirators have so long and zealously struggled against, has, notwithstanding their partial success, so far taken place as to ascertain the enormity of their criminality. That system which was pompously displayed as the perfection of government, **proves upon examination to be the most odious system of tyranny that was ever projected, a many headed hydra of despotism, whose complicated and various evils would be infinitely more oppressive and afflictive than the scourge of any tyrant:** the objects of dominion would be tortured to gratify the calls of ambition and cravings of power, of rival despots contending for the sceptre of superiority; the devoted people would experience a distraction of misery.*

*No wonder then that such a discovery should excite uneasy apprehensions in the minds of the conspirators, for such an attempt against the public liberties is unprecedented in history, **it is a crime of the blackest dye,** as it strikes at the happiness of millions and the dignity of human nature, as it was intended to deprive [Americans] of the choicest blessing of life and the oppressed...an asylum [of liberty].*

-- "Centinel;" Essay XII, 23 January 1788

An oppressed America could focus her ire on a nasty king or dictator, however, our foggy system defies such focus.

Americans don't know on precisely on *whom* to place the black hat. The President and Congress both blame each other, and together blame the Supreme Court. That was also the genius of the Constitution: to focus the public's attention on the board pieces. **Come on, look at the rules for a change!**

The 28 January 1788 *State Gazette of South Carolina* obituated "On the New Constitution:"

*In evil hour his pen 'squire Adams drew
 Claiming dominion to his well born few:
 In the gray circle of St. James plac'd
 He wrote, and, writing, has his work disgrac'd.
Smit with the splendor of a British King
The crown prevail'd, so once depis'd a thing!
 Shelburne and Pitt approv'd of all he wrote,
 While Rush and Wilson echo back his note.*

*Tho' British armies could not here prevail
 Yet British politics shall turn the scale;--
In five short years of Freedom weary grown
We quit our plain Republics for a throne;
Congress and President full proof shall bring,
 A mere disguise for Parliament and King.*

*A standing army!--curse the plan so base;
 A despot's safety--Liberty's disgrace.--
 Who sav'd these realms from Britains bloody hand,
 Who, but the generous rustics of the land;
 That free-born race, inur'd to every toil,
 Who tame the ocean and subdue the soil,
 Who tyrants banish'd from this injur'd shore
 Domestic traitors may expel once more.*

*Ye, who have bled in Freedom's sacred cause,
 Ah, why desert her maxims and her laws?
When thirteen states are moulded Into one
Your rights are vanish'd and your honors gone;
 The **form** of Freedom shall alone remain,
 As Rome had Senators when she hugg'd the chain.*

Sent to revise your systems--not to change--
 Sages have done what Reason deems most strange:
 Some alterations in our fabric we

*Calmly propos'd, and hoped at length to see--
Ah, how deceived!--these heroes in reknown
Scheme for themselves--and pull the fabric down--
 Bid in its place Columbia's tombstone rise
 Inscrib'd with these sad words--Here **Freedom lies!***

We got a rigged deal and a raw deal; a subtle plan to assure a fattened calf ready for a vigorous federal parasite. It is high time for us to realize the truth about our Constitution, and *amend* it before it's replaced with a *real* nightmare. It has *not* served the precious cause of Freedom. It was not so designed.

A favorite story circulating in Richmond on the eve of the assembly session told of the old Pennsylvania wagoneer who complained that the Federalists were trying to trick the people into accepting a plan that would oppress them. "It is for all the world like me and my wagon horses," the driver says. When they are grazing freely and need to get in harness, "I whistle to 'em, coax 'em, and stroke 'em, and makes as if I only mean to feed and curry 'em, and so to let them go again." Just so, the Federalist gentlemen "coaxes and wheedles and palavers us silly doodles, that this here newfangled government may catch us; telling us that we may go loose again when we please. But my mind misgives me... When once we are caught, we shall be fast bridled and harnessed, like my horses." The story ends with the sound of the cracking whip and the cry, "Gee--you sons of bitches."
 -- Henry Mayer; *A Son of Thunder*, p. 380-1

It didn't take a poli-sci professor to discern the nature of the new government. Simple *wagoneers* understood it. The trouble was, the common people weren't informed and organized in time. By the time most of them had even *read* the proposed constitution, it had already been *ratified* by the nine states. The federalist cities usurped the anti-federalist countryside.

Why the anti-federalists lost

Let that be a lesson to us all: **It is harder to defend than to attack.** The federalists knew *exactly* what they wanted, planned extensively for months, completed the Constitution in secret, arranged for the political help they needed, consolidated their team, went on the offensive and forced through their agenda in a superb "fast break."

Tyranny is always better organized than freedom.

-- Charles Peguy

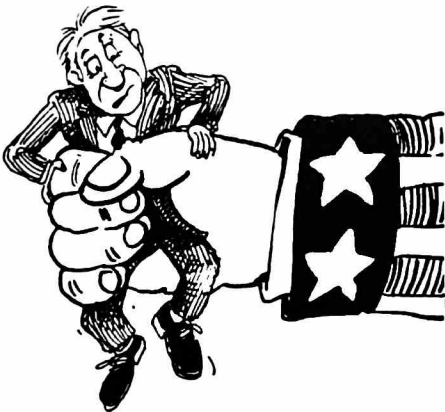
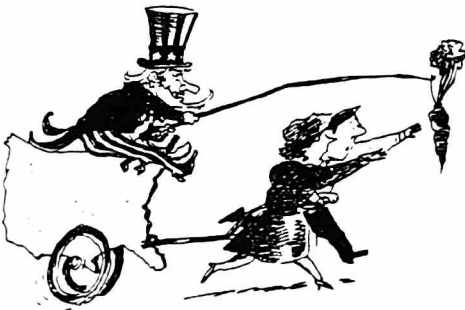
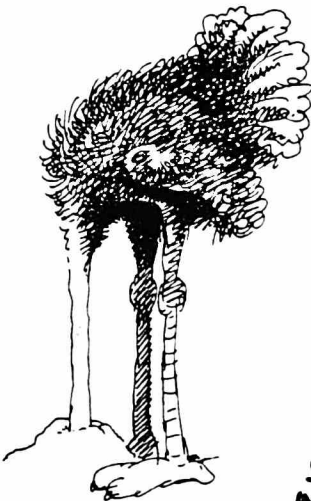
Caught totally off-guard by the suddenly revealed Constitution and its utter destruction of the Confederacy, the *Antis* had no organization and could do little but play defensive catchup from their bedsides. That's why they lost. They couldn't even agree on their aims, as Madison gloated:

...one [anti-federalist opinion] tells us that the proposed constitution ought to be rejected because it is not a confederation of the States, but a government over individuals. Another admits that it ought to be a government over individuals to a certain extent but by no means to the extent proposed. A third does not object to a government over individuals but to the want (lack) of a bill of rights. A fourth concurs in the absolute necessity of a bill of rights but contends that it ought to be declaratory, not of the personal rights of individuals, but of the rights reserved to the States in their political capacity. A fifth is of the opinion that a bill of rights of any sort would be superfluous and misplaced and that the plan would be unexceptional except for the fatal power of regulating the times and places of elections.

-- James Madison

The anti-federalists should have united under this demand: **The States will not vote until our proposed amendments and Bill of Rights are tabled at a *second* general convention.** Had they picked this *one, clear issue* and hammered it home, the federalists would have had to back off. The result?

A much better Constitution, more autonomous states, a truly controllable federal government--and I would have been writing about other things.



\$ 6

TRICKERY'S ORIGIN

Every word of [the Constitution] ***decides a question between*** [federal] ***power and*** [individual and state] ***liberty.***

--James Madison

*Truth certainly exists. But it is very hard to put together. It's always an assembled truth. **Truth must be assembled.***

-- Heinrich Boll

We've studied the history and provisions of the Constitution to discover its more obvious tricks, so let's now carefully scrutinize the actual document. Does it indeed contain a Trojan horse of subtle phraseology, or am I splitting imaginary hairs? We'll allow the Constitution itself to answer.

CONVENTION DRAFTS

It is necessary to chart the evolution of constitutional language through the various committee drafts which increasingly collated new verbiage into a more defined shape. They can all be found in Volume II of Max Farrand's *The Records of the Federal Convention of 1787*, indisputably the scholar's resource on the constitutional convention. I've underlined the more important drafts.

24-26 July proceedings to the Committee of Detail

Pages 134-152. Bare bones stuff

26 July-6 August notes of the Committee of Detail

Pages 152-175. Notes by Wilson.

6 August draft by the Committee of Detail

Pages 177-189. Notes by Madison. Highly informative.

4 September report by the Committee of Eleven

Pages 493-499. From the Journal and Madison's notes. This committee worked on unfinished bits.

10 September compilation to the Committee of Style

Pages 565-580. An extremely important Farrand compilation from the proceedings, as it shows what was later altered by the crucial Committee of Style.

12 September draft by the Committee of Style

Pages 590-603. The final working draft, in which the last sneaky verbiage was inserted. The crucial twists to the Constitution were added by these five men.

17 September final Constitution

Pages 651-665.

THE CONSTITUTIONAL TRIALITY OF THE "UNITED STATES"

The term 'United States' may be used in any one of several senses. It (1) may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It (2) may designate the territory over which the sovereignty of the [federal] United States extends, or it (3) may be the collective name of the States,...united by and under the Constitution.

--Hooven & Allison Co. v. Evatt, 324 US 652, at 672 (1945)

The term "United States" has three different meanings. It can mean the U.S.A., or merely federal territory, or just the 50 states. That a given, the obvious question is: **when was "United States" infused with such polymeanings?** Backtracking this with the clarification of *Hooven* it becomes apparent that the polymeanings were created, *not* in modern federal code, *not* in Constitutional amendments, *but within the original Constitution itself.*

From the "*united States of America*" to the "*United States*"

If you inspect a copy of the handwritten (not typeset) Declaration of Independence of 1776, you'll see that the States were referred to as the "*united States of America*." Within the 1781 Articles of Confederation, "*United States*" meant only the 13 States--and the term "*the United States in Congress assembled*" meant the States acting in confederate singularity. It was the Framers of 1787 who usurped the term "*United States*" to also mean their Federal Government.

Within the Constitution the term "*United States*" is mentioned 50 times and polymeanings were, without question, used. By my reckoning, the term refers to the Federal Government 42 times and to the states united only 8 times. (I *could* be wrong about several of the 42 which might actually refer to the states or even to the U.S.A. as a national whole, but a vital point of this chapter is to unequivocally prove the intentional use of "*United States*" polymeanings within the Constitution, resulting in a desired confusion which facilitated expansion opportunities for the Government.)

For example, IV:3:2, IV:4 and VI:3 all use "*United States*" in the obvious singular federal sense:

*...and nothing in this Constitution shall be so construed as to prejudice any claims **of the United States, or of any particular State.***

The United States shall guarantee to every State in this Union a republican form of government,...

*...and all executive and judicial officers, **both of the United States and of the several States,** shall be bound by oath or affirmation, to support this Constitution...*

Conversely, 111:3:1 refers to the "*United States*" in the plural:

*Treason against the United States shall consist only in levying war against **them**, or in adhering to **their** enemies,...*

So, not only were the polymeanings of "*United States*" intentionally and expressly used within the Constitution, *but often in ways as to actually **invite** confusion.* For such brilliant men to use merely **one term** to explain *three*

jurisdictional concepts would, on its face, pose a great mystery. Such is especially baffling when one considers the complicated relationship between the Federal Government and the states (and their *sum*, the U.S.A.)--all **of which are called the "United States"**?

"Who's-On-First, What's-On-Second, I-Don't-Know's-On-Third" is funny vaudeville stuff, but a constitution would demand somewhat more precision. **Why use one highly ambiguous term as the common name of three different things?** Why not simply call the nation the "United States of America" ("U.S.A.")--the states the "States"--and the Federal Government the "Federal Government?" Do you see my point? Was such clarity beyond them? Of course not.

What are the only logical conclusions?

That the federalists *purposely* avoided clarity in this crucial matter. That potential (if not certain) ambiguity was *intentionally* designed into this new system of government. **O.K.**, but for what purposes--to *what end*? I'll explain shortly.

"U.S." or "U.S.A."--so what?

Hear hoofbeats. Expect horses, not zebras.

-- Robert A. Heinlein

An example is needed here. Imagine that you live in Springfield, Missouri and operate a small business there. The City of Springfield has you get a business license and collect city sales tax. You do so. For many years everything is fine. Then, one day, you get a letter from "The City of Springfield" demanding that taxes be paid on unsold inventory. You do so. Even though you send payment to a local address, you notice a curious thing on your cancelled checks--they were cleared through an *Illinois* bank. You look at the original notice of demand for inventory taxes, cross-reference its code sections to learn that "The City of Springfield" is *not* your hometown in Missouri, but Springfield, *Illinois*.

Here's what happened: The Springfield, Illinois city government realized that they could set up an office in Springfield, *Missouri* and send out "*gimme*" letters to the locals. While the letters do not absolutely state "Missouri," the

implication is cleverly worded. You read "The City of Springfield" and *assume* Springfield, Missouri. Even though the letter's fine print, when squeezed, subtly admits to Illinois and exonerates the city of fraud, the power of implication has done its job. Nobody examined the fine print.

In a similar con, some sly folks found out that the "fingers walking" Yellow Pages logo was not copyrighted, so they sent out a facsimile invoice to Yellow Page advertisers. It looked like a bill, so it was paid like one. Somebody finally scrutinized the thing and discovered subtle print which declared that the supposed bill *wasn't* actually a bill.

Back to the "*United States*." Realize that all words are *symbols*. Symbols are used to evoke concepts and images. When you read "dog" you don't see "d-o-g"--you *imagine* a dog. When you read "*United States*" you don't imagine Washington, D.C. and other federal territory, do you? No, you imagine the whole *country*. Even though the term "*United States*" in law nearly always means only federal territory--you **instead imagine the United States of America!** Why? Because you've been *programmed* to imagine it by many implications. One vital consequence of this is your citizenship.

Federal citizenship vs. state Citizenship

[The term "*citizen*" is] *generally, if not always, used in a political sense, to designate one who has the rights and privileges of a citizen of a state or of the [federal] United States.*

-- *Baldwin v. Franks*, 120 US 678

Did you notice "*state or United States*"? **We are the only country with different internal citizenships.** Judge Miller in the 1880's "Slaughter-House" cases discussed the unique nature of our citizenships:

It is quite clear, then, that there is a citizenship of the [federal] United States, and a citizenship of a state, which are distinct from each other and which depend upon different characteristics or circumstances in the individual.

First, you are an U.S.A. National (check out your passport's bio page). This is conversationally synonymous with "American Citizen". *Then*, by virtue of being an American, you are

either a **state** Citizen or a **federal** citizen. While federal "**U.S. citizens**" are always American Nationals, not all American Nationals are necessarily federal "**U.S. citizens**." Nationality is *generic* regarding our system of 51 internal citizenships. Citizenship (state or federal) is conditional on nationality. American Nationals *choose* their internal citizenship by residence or declaration. What *kind* of American are you? Under whose regulatory roof do you live--the feds' or one of the state's?

The constitutional origin of federal citizenship

To create the constitutional foundation for federal citizenship, two sections in the 6 August draft had to be changed:

Art. IV, Sect. 2. Every Member of the House of Representatives shall...have been a citizen in (not "of") the United States for at least three years before his election;...

Art. V, Sect. 3. Every Member of the Senate shall...have been a citizen in (not "of") the United States for at least four years before his election;...

These two sections, if allowed to remain, would have undermined the federalists' fine and subtle plan. The 6 August term "*citizen in the United States*" simply specified American *nationality* as a congressional prerequisite. It would not, however, suffice for Congressmen to be merely Americans--they would have to be *federal* Americans.

So, on 8 August "*it was moved and seconded to amend [Art. IV, Sect. 2) by inserting the word 'of' instead of 'in' after the word citizen...*" (*Records*, Vol. II, p. 213). The next day, such was also done to Art. V, Sect. 3 for Senators (*ibid*, p. 229). Though unanimous measures, Madison did not mention them in his notes. They were reported only in the Journals.

The difference between 'in' and 'of' is monumental. 'Of' denotes "belonging to" or "being possessed by." It is one thing to be simply an "[American] Citizen *in the United States* [of America]," and quite another to be a "[federal] citizen *of the United States* [government]." On 8 and 9 August 1787, the future Federal Government gained political/regulatory power over its own citizens. (A temporary setback was a relative lack of bodies. This would be overcome through the WWII income tax acts.)

The 14th Amendment

The constitutional foundation for federal citizenship laid, it would be built upon in 1868 by the 14th Amendment:

*All persons bom or naturalized in the [federal] United States and subject to **the** jurisdiction thereof (not "their jurisdictions") are citizens of the [federal] United States...*

-- 14th Amendment of the Constitution for the U.S.A.

While "*the*" can be read either singular or plural, the singular '*jurisdiction*' gives it way. Congress, on the other hand, knew how to use the term "*United States*" in its *plural* sense; for example, the 13th Amendment of 1863:

*Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in the United States, or any place subject to **their** jurisdiction.*

(Since the Amendment avoided saying "*in the [federal] United States, or in any State,...*" I wonder if slavery was left possible in *federal* jurisdiction.) To nail this issue shut, the "*United States*" is unequivocally used in its singular/federal sense in Title 26 (Income Tax) of the Code of Federal Regulations:

26 CFR 1.1-1(c) **Who is a citizen.**

*Every person bom or naturalized in the [federal] United States and subject to **ITS Jurisdiction** is a citizen.* (my capitals)

Clearly, the law is speaking of the singular/federal "*United States*" and not the plural 50 states. This is confirmed in the law encyclopedia *American Jurisprudence* (3A, 2d, p. 1419).

"...and subject to the [federal] *jurisdiction thereof*..."¹¹

Both before and after the Fourteenth Amendment..., it has not been necessary for a person to be a citizen of the [federal] United States in order to be a citizen of his state...

Under our complex system of government, there may be a citizen of a state, who is not a citizen of the [federal] **United States** In the full sense of the term...

-- *Crosse v. Board of Supervisors of Elections*, 221 A.2d 431

State Citizens don't have to be federal citizens. The phrase "*in the full sense of the term*" refers to "*the jurisdiction thereof*" in the 14th Amendment. This phrase has vital implications:

*The evident meaning of...["and subject to the jurisdiction thereof " is, not merely subject in **some** respect or degree to the jurisdiction of the [federal] United States, **but completely subject to...[its] political jurisdiction, and owing...[it] direct and immediate allegiance.***

-- *Elk v. Wilkins*, 112 US 94, 109 (1884)

The phrase "*direct and immediate allegiance*" is something right out of feudal law (see Black's Law Dictionary). Americans who became "*U.S. citizens*" have transposed themselves from one system into another fundamentally different from the first. They did this by declaring themselves (on applications, voter cards, tax forms, etc.) to be a "*U.S. citizen*" or a "*citizen of the United States*." (These terms were not prevalent on forms and paperwork until *after WWII*.)

Americans have unknowingly joined a modern feudal system in which they must render a percentage of their toil to their federal master. As long as they *stay* (even unawaredly) in that system, their constitutional rights remain waived. The IRS calls this "*voluntary compliance*." Many untax Patriots (e.g., Irwin Schiff) challenged federal income tax in "*U.S.*" court on *constitutional* grounds and were surprised to learn that the Constitution was "*not at issue*."

The "non-federal" state Citizenship became virtually unknown as millions of state Americans were tricked *out* of their sovereignty and *into* federal citizenship--and thus into federal *jurisdiction*. Today, the states have been all but replaced by corporate, federal overlays (e.g., "*State of...*"--see Title 4 USC §§105-110). This was *planned* (see page 2/12). There's probably not enough *left* of the original states for Americans to resume state Citizenship.

Back to our "*U.S.*" story

Remember, the nationalists wanted to abolish the States and rule America by one supreme government. The people of 1787 weren't about to let *that* happen, and the nationalists knew it. Since the federal couldn't be *born* utterly national in scope; since the Founding Lawyers couldn't achieve a "One Nation-One Government" in 1787, then 1887 or 1987 would have to suffice. To prepare the groundwork, they needed to accomplish two things.

Ruling the federal "*United States*"

First, give Congress supreme authority to:

...exercise **exclusive Legislation In all Cases whatsoever**; over each [federal] Oistrict...and to exercise like Authority over all [federal] Places purchased... (1:8:17)

...make all needful Rules and Regulations respecting the Territory or Property **belonging to the United States**; (IV:3:2)

There is no dispute that Congress is the legislature for and sovereign authority over this federal zone called the "*United States*." But here's the really *interesting* part:

[When legislating for the federal zone] **Congress is not subject to the same constitutional limitations**, as when it is legislating for the United States [of America]...And in general **the guarantees of the Constitution**, save as they are limitations upon the exercise of executive and legislative power when exerted for or over our insular [federal] possessions [within the 50 states], **extend to them only as Congress**, in the exercise of its [exclusive] legislative power over the territory belonging to the [federal] United States, **has made those guaranties applicable**.

--Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)

What this means is that the Constitution created the boundary of the federal zone and gave the Congress exclusive, unlimited authority *within* that zone. **Within the federal "*United States*" the Congress is supreme--not the Constitution.** This explains the outrageous regulatory atmosphere within Washington, D.C., where the Bill of Rights has no authority (but what Congress *voluntarily* gives it).

If you've been baffled at how Congress can pass seemingly unconstitutional legislation which totally violates our freedoms, now you *know* how it's done. Congress merely enacts municipal law for the "*U.S.*" which is immune from implicit constitutional restrictions, and we obey such "*Acts of Congress*"--*believing* that they apply to us in the states!

So why haven't we known this for years?

Because the contrast was hidden from us. Since Congress has power of "*exclusive legislation*" over federal territory, Congress has no constitutional limitations while

making laws therein. The only limitations are those which Congress *voluntarily* applies. **Why would they *willing* limit themselves? To camouflage their *lack of blanket legislative authority for the U.S.A.*** If Congress had, from 1789, ruled federal territory as their fiefdom without regards to the Bill of Rights--as was and *is* their prerogative--yet simultaneously recognizing their constitutional restrictions when legislating *outside* of the federal zone, then the contrast would have been too obvious to ignore. Nonfederal Americans would have realized by this contrast how incomplete were the national powers of Congress.

Vivid contrasts are dangerous things. Case in point: East Berlin. Philosophically ignorant American tourists walked from prosperous, colorful, capitalistic West Berlin to dreary, oppressive, gray, communistic East Berlin and a philosophical chord was struck in even the most obtuse--"*Coercive collectivism stinks.*" The place resembled a public restroom, if I'm not being overly unkind to public restrooms. Ten minutes in East Berlin graphically illustrated what every high-school and college history course had managed to gloss over--that Marx and Lenin were philosophically insane.

Having toured Eastern Europe many times, I'm not at all surprised by the fall of the Berlin Wall. As we are on the verge of a global collectivism (the "New World Order"), the educational contrast of the Soviet bloc had to be first removed. The globalists couldn't very well sell their scheme if a nasty microcosm of it still existed in easily visited East Berlin, Poland, or Romania. (Besides, the IMF got tired of propping the Communist bloc, so a vitamin dose of freedom was allowed in those countries for their fattening up.)

North Korea, Vietnam, China, and Cuba must be feeling lonely--but not to worry. Congress gives them Most Favored Nation status, billions of dollars, and (to China) our naval base at San Diego. (Since Gorbachev is graciously allowed to live on our mothballed Presidio Army base in San Francisco, the Chinese had to have, gosh, *something*.) ***I mean, get this:*** a former KGB *chairman* is living on one of our oldest army bases, and Clinton gives the Communist Chinese one of our largest naval bases to off-load their slave labor products. **If this isn't treasonous, then *nothing* is.** (Gee, if Lenin were

alive today, Congress would turn the Washington Monument into his high-rise luxury condo.) Here ends the venting. **Now**, back to our discussion of regulatory contrasts.

The earlier Congresses couldn't allow the contrast of an oppressive federal zone vs. free states. Congress couldn't immediately remove their congenial mask of republicanism; they had to *gradually morph* into today's draconian body while avoiding any contrast in regulatory atmospheres between federal and state. Still with me?

Confuse the language

The second prerequisite for the Framers was to infect the Constitution with a virus--and a sluggish one, at that. Through "*United States*" polymeanings the independent jurisdictions of the states would first blur and then disappear.

*The idea prevails with some--indeed, it found expression in arguments at the bar--that **we have in this country substantially or practically two national governments**; one to be maintained [in a limited, federal sense] under the Constitution, with all its restrictions [on government power]; **the other to be maintained by Congress outside and independently of...[the Constitution], by exercising such [despotic] powers as other nations of the earth are accustomed to exercise.***

--Downes v. Bidwell, 182 U.S. 244 (1901)

*Our national Congress works for two nations foreign to each other, and by legal cunning both are called **The United States**. One is the Union of [allegedly] Sovereign States, under the Constitution... The other is a Legislative Democracy which has its origin in [1.8:17] of the Constitution, here termed the **Federal United States**. Very few people, when they see some 'law' passed by Congress, ask themselves, 'Which nation was Congress working for when it passed this or that so-called law?' Or, few ask, 'Does this particular law apply only to residents of the District of Columbia and other named enclaves, and territories, of the Democracy called the Federal United States?'*

--Howard Freeman; *The Two United States*

Federal was to become national through words. The federal "U.S." was to become national "U.S.A." "United

States" wasn't merely a linguistic metaphor for nationalist desires, **their term was the vehicle of conversion.**

They knew that the federal "*United States*" would become confused in law for "*United States of America*" and this confusion would facilitate, over generations, the expansion of the Federal Government's scope and jurisdiction. Regulations, decrees and taxes applicable only in federal territory or to federal subjects would be obeyed and paid by nonfederal Americans because they heard the *federal* zebra's "*hoofbeats*" and imagined the *national* U.S.A. horse. The U.S.A. would at last be ruled by a virtually unchallengeable central power impossible to achieve in the freedom-oriented 1780's.

"We the People of the United States,..."

In *The Federalist* #84 Alexander Hamilton paraphrased the Constitution's Preamble:

*We, the People of the United States,...to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution **for the United States of America.***

Why were the "*United States*" and the "*United States of America*" both mentioned? Shouldn't it have read "*We the People of the United States of America?*"--or, "*this Constitution for the United States*" leaving off "*of America?*" It's not "*the U.S. for the U.S.*" or "*the U.S.A. for the U.S.A.*"--**it's "*the U.S. for the U.S.A.*"** Do you see it? "*We of the federal U.S. decree this **for you across America.***" Why?

In what must be the ultimate tongue-in-cheek, the Preamble explained, "...to secure the blessings of liberty to **ourselves** and to **our** posterity..." And who are "**ourselves** and **our** posterity"? Why, "*We, the People of the United States,*" naturally! **Because "*People*" is capitalized it is a proper noun referring to a specific body of people.** This explains how they can and do call themselves "*We the People of the United States*"--which is *not* what they originally called themselves in the Preamble's *first* draft:

We the people (small "p") **of the States of New Hampshire,...and Georgia, do ordain, declare, and establish the following Constitution **for the Government of Ourselves and our Posterity.****

Now, the Committee of Style's version (the final Preamble):

We the People (capital "P", thus proper noun) ***of the United States***, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this ***Constitution for the United States of America***.

Notice that it no longer speaks of "*the Government of Ourselves and our Posterity*." And why *should* it? Why govern *yourself* when it's so much more rewarding to govern *others*? The Convention delegates seemed to have created a Constitution ***for the United States of America***."

FEDERAL CORPORATIONS - The United States government is **a foreign corporation** with respect to a state.

--19C.J.S. XVIII. Foreign Corporations, §§ 883, 884

In short, those of the federal "U.S." established their own political and *corporate* relationship ***for the U.S.A.***--for the soon-to-be *unsovereign* States and their Citizens.

ARE THERE TWO CONSTITUTIONS?

"...for the U.S.A." and "...of the U.S.?"

So far, you've learned that the term "*United States*" has three different meanings, only *one* of which is synonymous with the "*United States of America*." **Rarely is "U.S." supposed to actually mean "U.S.A."** The terms "*United States*" and "*U.S.*" usually mean the "*foreign corporation*" of the federal government (and/or federal territory).

The very curious Presidential oath

The Preamble speaks of ***this Constitution for the United States of America***." Thereafter, the Constitution refers to itself eight more times as ***this Constitution***" in harmony with the Preamble. But something odd occurs in 11:1:8 which describes the President's oath of office:

*I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to best of my ability, preserve, protect and defend the **Constitution OF the United States**.* [capitalization added]

Including the Preamble, "**this** Constitution [for the U.S.A.]" is used 9 times, whereas the "*Constitution **of** the **United States***" is mentioned *only* in the Presidential oath at II:1:8. A mere literary oversight? Unlikely--not with *their* education. Notice the two important differences:

<u>Preamble</u>		<u>Presidential Oath</u>
"Constitution for the... "	vs.	"Constitution of the... "
"the United States of America "	vs.	"the United States"

Not only is there is a huge difference between "*for*" and "*of*"--but omitting "*of America*" is the "smoking gun." One linguistic difference *might* be innocently accountable to a simple error of grammar or transcription--but **not both**.

Changing the Presidential oath

Think I'm still splitting hairs? Well, read from the *first* draft of the Constitution (6 August 1787--*Records*, Vol. II, p. 185), Art. X, Sec. 2--the President's *originally* proposed oath:

*I solemnly swear, (or affirm) that I will faithfully execute the office of President of the United States **of America**.*

According to *Records*, Vol. II, p. 427, on 27 August, Col. Mason and Madison proposed that the following words be added:

*and will to the best of my judgment and power, preserve, protect and defend the Constitution **of** the United States* (notice that there's no "*of America*")

So, the version referred to the Committee of Style read as:

*I _____ solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States **of America**, and will to the best of my judgment and power, preserve, protect and defend the Constitution **of** the United States.* (*Records*, Vol. II, p. 575)

Did the Committee of Style miss this discrepancy between President of the **U.S.A.** and the Constitution of the **U.S.**? Nope. Their revised oath (*ibid*, at 599) read as:

*I _____, do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States ("**of America**" **is dropped**), and will to best of my judgment and power, preserve, protect and defend the constitution **of** the United States.*

Largely unchanged, the final version (*ibid*, at 659) reads:

I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to best of my ability, preserve, protect and defend the Constitution of the United States.

So, to recap the five week evolution of 11:1:8:

<i>President of the U.S.A.</i>		6 Aug.
<i>President of the U.S.A.</i>	<i>Constitution of the U.S.</i>	27 Aug.
<i>President of the U.S.</i>	<i>Constitution of the U.S.</i>	12 Sept.

Even though the President's title (at 11:1:1) is "*President of the United States of America*"--**the office which he swears to faithfully execute (at 11:1:8) had been changed to "President of the United States."** (This discrepancy between title and office probably just slipped by the Committee of Style. Hey, nobody's perfect.) But, no matter. After administering the oath to Washington, the Chancellor of the State of New York proclaimed, "*Long live George Washington, President of the United States.*"

All this seems very curious when one simultaneously considers his mandatory defense of the "*Constitution of the United States*" (evidently a separate charter--more on this later). It was the crucial five man Committee of Style which dropped "*of America*" and changed the office to the current "*President of the United States.*" This committee was composed of W.S. Johnson, G. Morris, King, Madison and, having just returned from NYC, *Alexander Hamilton*.

Question: Why didn't the Committee use the phrase "*Constitution for the United States of America*" to remain in harmony with the Preamble? Also, why didn't they add "*Of America*" to "*President of the United States*" to agree with his title specified in 11:1:1?

Mr. President--how about this instead?

For all of you who think I'm grabbing at straws, that there is no difference between the "*Constitution for the United States of America*" and the "*Constitution of the United States*"--that there's no real problem with the conflicting terminology between the presidential title in 11:1:1 and his office in 11:1:8--here's a simple test. Let's get a

petition going which expresses alarm at this apparent inconsistency and respectfully ask the next president sworn to use instead the following language:

*I do solemnly swear that I will faithfully execute the Office of President of the United States **of America** (11:1 :1), and will to the best of my ability, preserve, protect and defend the Constitution **for the United States of America** (Preamble).*

If any President were to actually *try* this, the Chief Justice administering the oath would probably have a stroke. But really, if there's no difference between "*for the U.S.A.*" and "*of the U.S.*" then there's no harm in correcting the oath, not just for the President, but for *all* government officials.

Correcting the VI:3 discrepancy

*The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to **support this Constitution** [for the U.S.A.];...*

-- VI:3; Constitution for the United States of America

Interestingly, only the *President* was required to defend the "*Constitution **of** the United States.*" All other officials, Federal and state, were required in VI:3 to support the Preamble's "***this** Constitution [for the U.S.A.]*." This discrepancy was quickly addressed within the first three months of operation on 1 June 1789. Perverting the VI:3 reference to "*this Constitution,*" Congress passed *An Act To Regulate the Time and Manner of Administering Certain Oaths*:

Sec. 1 *Be it enacted... That the oath or affirmation required by the sixth article of the Constitution **OF** (not "for") **the United States** (omitting "ofAmerica"), shall be administered [to Congressmen] in the form following, to wit: "I, A.B., do solemnly swear or affirm (as the case may be) that I **will** support the Constitution **OF** (not "for") **the United States** (omitting "ofAmerica")." (capitalization added)*

This was clever. First, erroneously refer to the "*Constitution **for** the United States **of** America*" as the "*Constitution **of** the United States*" (which is what the President swears to

defend)--and *then* shift congressional allegiance to this other constitution. (As I said, the devil is in the details.)

How did Congress get away with this? Simple. They hadn't been "*bound by oath or affirmation, to support **this** Constitution* [for the U.S.A.]." They still aren't to this day. No Congress has ever supported "*this*" Constitution, because ever since 1789 they have upheld only the "*Constitution **of** the United States*"--*whatever*, wherever *that* is. (The First Congress operated for *three months* unbound by *any* oath and created during that time the *Judiciary Act of 1789*. Hmmm.)

On 3 March 1791, an oath "*to support the Constitution **of** the United States*" was required of all officials. Today, nobody swears to support the "*Constitution **for** the United States **of** **America***." Not state or local officials, not the armed forces, not A.B.A. *attorneys--nobody*. Comforting, isn't it?

Did federalists make a separate constitution?

In light of the subtly tweaked presidential oath and its usurpation of the VI:3 oath requirement, one may conclude that the 11:1:8 "*Constitution **of** the United States*" which the President must swear to defend is **not identical to** the Preamble's "*Constitution **for** the United States **of** **America***." The circumstantial evidence supports my theory that the federalists created a private constitution for *themselves*, referred to within "our" Constitution--hidden in plain sight.

If so, then the federalists had incorporated themselves as the "*United States*" by internal charter (the "*Constitution **of** the United States*") prior to the 17 September signing of the "*Constitution **for** the United States **of** **America***"! If there is a covert "*Constitution **of** the United States*" then it must have been at least *contrived* by 27 August (when it was proposed in the Presidential oath). The plan had likely been conceived *prior* May, was well honed during the Convention, and the last necessary verbiage inserted by the Committee of Style.

So how does this actually *work*? Do *all* new officials get some private lecture and a copy of the "*Constitution **of** the United States*"? Probably not, as somebody would have made it public by now. I'd guess that the whole thing is concentric

and tightly run, like the Masonic hierarchy. Initiation into the scheme is no doubt for time-tested members, and their hidden "software" silently controls the political hardware, like an invisible UNIX kernel.

10-12 September: The Committee of Style

This crucial committee kept utterly no public records:

...It is true, that the state of the materials, consisting of a reported draft in detail, and subsequent resolutions accurately penned, and falling easily into their proper places, was a good preparation for the symmetry and phraseology of the instrument, but there was sufficient room for the talents and taste stamped by the author on the face of it. The alterations made by the Committee [of Style] are not recollected... (Well, how convenient... KWR)

-- Madison to Jared Sparks, 8 April 1831 (*Records*, III, p. 499)

Remember, the only *real* notes taken at the Convention were by Madison--to be kept from the public until 1840, four years after his death. (If it's not written down, then it never "happened.")

Anyone who has ever been involved in the inner workings of an important political convention knows that nearly everything that happens on the floor is but the staged sum of an infinite number of backstage maneuvers conceived and rehearsed by small groups off the floor at places like the hall of the Indian Queen. The Constitutional Convention was no exception. If some recorder had taken down all the conversations occurring...off the floor, posterity would understand [the Convention] far better than it does... Gratitude to Madison for keeping the most complete set of notes of events that took place on the floor should not mislead the reader into believing that they represent more than the onstage events of the convention. The backstage events, the rehearsals, and rewrites that made the onstage events less extemporaneous than they seemed will never be known.

-- Robert A. Hendrickson, *Hamilton* I, p. 457

This final committee also dealt with overly clear language: "*shall be the supreme law of the several states, and of their citizens and inhabitants*" was softened to "*shall be the supreme law of the land,*" while the President's aristocratic title of "*His Excellency*" was wisely dropped. (Don't spook the people...)

*The reasons the convention did not feel impelled to include in explicit form other detailed powers of Congress are that 1. many members felt that **it was unnecessary to do so**, inasmuch as these lesser powers were already included as incidents of greater and more inclusive powers; 2. their specific inclusion, by creating fears of the excessive powers of Congress, **might jeopardize the acceptance and ratification of the Constitution.***

-- Frank Bourgin; *The Great Challenge--Myths of Laissez-Faire in the Early Republic* (1989), p. 43

The Convention made many "ad copy" changes to make the Constitution more palatable without diluting its latent authority. There was even punctuation prestidigitation:

*...a change of punctuation in a clause caught the eagle eye of Roger Sherman of Connecticut. **A semicolon had been inserted in place of a comma** in the enumeration of congressional powers: "To lay and collect taxes, duties, imposts and excises; (This semicolon transforms the previous clause into an independent sentence. KWR) to pay the debts and provide for the common defence and general welfare of the United States." **The semicolon had originally been a comma.** Mr. Sherman objected to the semicolon following "excises," insisting the change implied an independent power of Congress not granted by the Convention. It is alleged that Gouverneur Morris of Pennsylvania, the principal penman of the Committee [of Style], made the punctuation change to suggest a further taxing power of Congress, in line with his own ideas. A reliable source says the change was a "trick" so as to create a distinct power, but after Mr. Sherman discovered it, the original comma was reinstated.*

-- Jeffery St. John; *Constitutional Journal*, p. 214

"The comma subordinates the taxing power to the grand, threefold purpose of the Federal Government. A semicolon would have allowed Congress to lay and collect taxes--period--without any connection to debt payment, defence, or general welfare. The courts have so grossly stretched the "*general welfare*" clause that there is now *nothing* which cannot conceivably fit under the umbrella. Functionally, Congress today enjoy a virtual semicolon and may lay whatever taxes they please.)

SOME FINAL THOUGHTS

I realize that all my discussion of a possible hidden constitution is largely conjecture based upon circumstantial evidence. However, as a wordsmith, I use words, as tools, for a living. More importantly, a reader must grasp *what* was purposely left *unsaid*, and *how* it was left unsaid.

To read law requires absolute focus. Our society was never sufficiently focussed enough to study law, which explains how the law has been so horribly used *against* us.

Ambiguous language: accidental or deliberate?

It really seems inconceivable that the brilliant men of the 1787 Convention would have gradually dropped "*of America*" from the presidential oath *by accident*. Would they have changed "*citizen in the United States* [of America]" to "[federal] *citizen of the United States* [government]" unless it was deemed important? Would they have purposely built in confusion with the polynymic "*United States*" unless they had a good reason to do so? **Linguistically, the Framers were either incredibly incompetent or incredibly shrewd.**

Oh, so the Founding Fathers were incapable of duplicity? Read page 110 from Ben Franklin's autobiography where he boasted about successfully calling gunpowder "*grain*" and a cannon a "*fire-engine*" in order to receive £3,000 from the English. **The Framers were cagey and practical men.** They thought that a "*vigorous*" national government was best for America, but impossible to achieve in 1787. So, they settled for the constitutional *infrastructure* for an *eventual* such government. The Framers *were* sincere in their *motives* (however elitist). To such a mindset, the end justifies the means. Anything less is for impractical idealists.

Prove me wrong, then

Folks, there *is* something to this second constitution. To be honest, I *believe* it more than I know it, however, my belief is in good faith and rests on years of legal research and nonfiction writing. While I don't claim to have *utterly* proven my point, my circumstantial evidence seems *at least* worth further study, so I'll leave it at that. I offer this theory largely as an historical enigma which deserves investigation.

\$ 7

HAMILTON....COVERT BANKSTER AGENT?

Most suspicious was Hamilton's unusual "revolving door" Convention attendance by going back and forth to NYC.

Hamilton's unexplained comings and goings

According to Vol. III, p. 588 of Farrand's *The Record of the Federal Convention of 1787*, Hamilton:

Attended on May 18; left Convention June 29; was in New York after July 2; appears to have been in Philadelphia on July 13 (Without attending? Was back in N.Y. by July 26 to write Auldjo); attended Convention August 13; was in New York August 20--September 2.

Rest assured that I'm *not* the only author who views Hamilton's attendance record with suspicion:

*Hamilton was back in New York **again** in late August **for mysterious and Inscrutable reasons that must have come up quite suddenly**: there is no other way to account for his rushing back to Philadelphia and forth to New York again late in August for only a week or so of not very consequential floor appearances...*

--Robert A. Hendrickson, *Hamilton I*, p. 483

A chronological outline of Hamilton's attendance

Outvoted by fellow N.Y. delegates Lansing and Yates and his 18 June scheme ignored, Hamilton left in apparent disgust on 29 June. Writing Washington from N.Y. on 3 July:

*In my passage.../ have taken particular pains to discover the public sentiment and I am more and more convinced that this is the critical opportunity for establishing the prosperity of this country on a solid foundation... **The prevailing apprehension among thinking men** (fellow Nationalists) **is, that the Convention, from a fear of shocking the popular opinion, will not go far enough...***

*A plain but sensible man, in a conversation I had with him yesterday, expressed himself nearly in this manner--The people begin to be convinced that their "excellent form of government" (the Confederacy) as they have been used to call it, will not answer their purpose; **and that they must substitute something not very remote from that** (a monarchy) **which they have lately quitted.***

*These appearances though they will not warrant a conclusion that the people are yet ripe for such a plan as I advocate, **yet serve to prove that there is no reason to despair of their adopting one equally energetic, if the Convention should think proper to propose it.** They serve to prove that we ought not to allow too much weight to objections drawn from the supposed repugnancy of the people to an efficient constitution...*

*.../ own to you, Sir, that I am seriously and deeply distressed at the aspect of the Councils which prevailed when I left Philadelphia--**I fear that we shall let slip the golden opportunity** of rescuing the American empire from disunion anarchy and misery--No motley or feeble measure can answer the end or will finally receive the public support. **Decision is true wisdom...***

I shall of necessity remain here ten or twelve days; if I have reason to believe that my attendance at Philadelphia will not be mere waste of time, I shall after that period rejoin the Convention.

Washington replied to his former *aide-de-camp* Colonel Hamilton on 10 July, the very day that New York delegates Lansing and Yates (who had consistently outvoted him) left:

... The Men who oppose a strong & energetic government are,... narrow minded politicians, or are under the influence of local views.

I am sorry you went away--/ wish you were back.--The crisis (!) is equally important and alarming, and no opposition... should discourage exertions till the signature is fixed....

Did this desperate plea from his former commanding General send Hamilton rushing back? **Yes, but not to the Convention.** Though he returned to Philadelphia by 13 July (Manasseh Cutler met him and others then at the Indian Queen), it was for some *other* business than the Convention.

He went back to N.Y.C. by 26 July to write Auldjo regarding a duel, and stayed until 6 August (according to *The Papers of Alexander Hamilton*, Vol. IV, p. 234). He must have left on the 7th in order to arrive in Philadelphia on 9 August at 8PM (according to his travelling companion Elbridge Gerry, in a letter to wife Ann--see *Records*, Supplement, p. 215). Hamilton was back in N.Y. again by 20 August.

Hamilton helps with the Constitution's final tweaking

On 20 and 28 August he wrote delegate King:

In the mean time if any material alteration should happen to be made in the plan now before the Convention, I will be obliged...for a communication of it. I will also be obliged to you to let me know when your conclusion is at hand; for I would choose to be present at that time. (20 August)

*I wrote to you some days since to request you to inform me when there was a prospect of your finishing, as I intended to be with you, **for certain reasons**, before the conclusion.*

It is whispered here that some late changes in your scheme have taken place which give it a higher tone. Is this the case? (28 August)

These "*late changes*" were clearly the "*necessary and proper*" clause of 20 August and the "*supreme law*" clause of 23 August, both unanimously adopted. The "*higher tone*" plainly referred to the government's increased authority over defeated States. These "*necessary and proper*" and "*supreme law*" clauses would give Hamilton and the Supreme Court the subtle opportunity for federal expansion. Though the delegates had been sworn to secrecy, Hamilton obviously had an inside ear to the Convention. How else *could* he have known, 80 miles away in NYC, of certain "*late changes*?"

King must have replied immediately, for Hamilton was enroute by 3 September (arriving on the 6th), just in time to join King and the others in the 10-12 September Committee of Style to put the final "*higher tone*" polish on the Constitution.

...[T]he Committee of Style,...was probably the most Important of all convention committees. Charged with molding and arranging the wording of all drafts and resolutions into the final form of the document, his fellow members, elegant stylists all, were Gouverneur Morris, James Madison, William Samuel Johnson, and Rufus King. **Of all the delegates these five men probably had closer personal ties with Hamilton and Washington than any...**

As Hamilton knew, the symmetry, phraseology, form, and style of a document like the Constitution of 1787 **In time become its very essence.** Innumerable decisions of courts and Congresses and legislatures in the years since the committee met have turned on individual words--their position in each phrase, clause, and sentence--and **even on points of punctuation.**

-- Robert A. Hendrickson; *Hamilton I*, p. 487

Recall the work of that Committee of Style:

It tried to increase tracing powers by that semicolon.

It scrapped "*ofAmerica*" in the Presidential office.

Its Preamble of "*We the People ofthe United States,... establish this Constitution **for** the United States ofAmerica.*"

So, was Hamilton a covert agent for the banksters?

Most likely. Recall that, at the young age of 23, he submitted his plan for a national bank to the Confederation's superintendent of finance. Two years later he's complaining to the Confederate Congress that the Tories (British loyalists) can't get redress in State courts. He then began his postwar law practice as the Tories' foremost attorney in their lawsuits to recover confiscated property. He married into one of the most wealthy and blue-blood families in New York. He **was a** lifelong dedicated Anglophile and hauteur aristocrat.

Though I've so far no *direct* evidence and his personal papers of 1787 are (purposely?) utterly meager, to me it *seems* highly likely that Hamilton served as a vital emissary between the Convention and interested banking powers in New York. Hard proof in some "smoking gun" is probably *not* forthcoming. If such a conspiracy *did* occur as I suspect, then the actors probably destroyed their communications.

However, there is much circumstantial evidence to suggest that some kind of covert plan existed. Recall

Federalist #1 in which Hamilton cryptically admitted that "**My motives** (for supporting the proposed constitution) **must remain in the depository of my own breast.**" This was an extremely odd remark, quite pointedly made for *some* reason.

Let's recap his odd travel history that summer of 1787. What is known for sure (or can be unequivocally inferred) from records and letters is in bold; the rest is my speculation. I assume a three day travel time from Philadelphia to NYC.

18 May to 28 June	Philadelphia Convention
29 June to 1 July	en route to NYC
1 to 2 July	probably in NYC
3 July	NYC (wrote to G. Washington)
3 to 9 July	still in NYC
11 to 13 July	latest to be <i>en route</i> to Philadelphia
13 July	Philadelphia (with M. Cutler)
14 to 22 July	still in Philadelphia
23 to 25 July	latest to be <i>en route</i> to NYC
26 July to 6 August	NYC (wrote various letters)
7 to 9 August	en route to Phil. with E. Gerry
9 August (8PM)	Philadelphia (no attendance)
10 to 13 August	still in Philadelphia
13 August	Philadelphia Convention
14 to 16 August	latest to be <i>en route</i> to NYC
17 August	NYC (with John Jay at meeting)
18 to 19 August	still in NYC
20 August	NYC (wrote to Rufus King)
21 to 27 August	still in NYC
28 August	NYC (wrote again to Rufus King)
29 August to 2 September	still in NYC
3 to 5 September	latest to be <i>en route</i> to Philadelphia
6 to 17 September	Philadelphia Convention
18 to 20 September	probably <i>en route</i> to NYC

What Hamilton *actually* did in the federalist/banking stronghold of NYC during that summer, and with whom he met, we shall probably never know. (While I didn't *utterly* scour every known archive, my research was *quite* extensive.)

But this much is known: no other delegate matched Hamilton in his unique skills and energy; no other delegate so strongly desired a powerful national bank and virtual aristocracy of propertied elite; **and no other delegate had the suspicious attendance record.** (Everyone *else*

arrived and stayed, without comings and goings. Between Hamilton's two periods of regular attendance, he came and went *at least twice--a 3 day trip each way from NYC.*)

Except for his 18 June melodrama, Hamilton's Convention performance was oddly restrained. In *The Grand Convention*, Clinton Rossiter--utterly baffled--judged Hamilton to be one the "Great Disappointments" in the very Convention he had strived so mightily for and its resulting Constitution he so inexhaustibly supported both in his 51 *Federalist* essays and in the New York ratifying convention.

He was a veritable dynamo of brilliance before and after the Convention, *so why was he a dud during?* I surmise that Hamilton had probably been *instructed* to be restrained during the Convention. This was akin to muzzling a bulldog, as he was an accomplished debater who savored political hand-to-hand. He returned to the "bench" of silence following his well-timed (and thus probably cued) outburst of 18 June. After two months of mere sedentary observance, Hamilton seemed to have had enough with Franklin's motion for prayer on 28 June, and left for home the next day.

Finally, no other delegate could be the first Secretary of the Treasury--a crucial man with 500 *employees* (70 of whom in his own building), compared to less than 20 of the State and War Departments *combined*. No other delegate could have so quickly and successfully monetized the public debt through a monopolistic U.S. bank.

At 23 years of age, most young men are out drinking and chatting up women--but, no, *Hamilton* is cloistered away somewhere, shunning song and dance, drafting his national bank! Isn't it *reasonable* that, seven years later, he had made himself known to, through his service on Gen. Washington's staff and then in the New York legislature, powerful men in the banking circles? Does it not then follow that he then allied himself with such men and worked within the Committee of Style to further banking and mercantile interests? Jay even used Hamilton's Bank of New York to fund the new Congress's Federal Hall in NYC. Clearly, I am *not* making huge leaps here. The circumstantial evidence is abundant; my deductions mild.

Finally, no other delegate would put the U.S.A. on a

Finally, no other delegate would put the U.S.A. on a course of such assured federal dominion through such a bold perversion of the "*necessary and proper*" clause, which allowed federal taxes to usurp the states' revenue base.

[The proposed Federal Government] **may then triumph altogether over the state governments and reduce them to an entire subordination, dividing the larger states into smaller districts.** The [bureaucratic] organs of the general government may also acquire additional strength. (Gee, say "when"! KWR)

-- Alex. Hamilton; *Conjectures about the New Constitution*, 17-30 September 1787 (*Papers*, Vol. IV, p.276)

The historical evidence strongly supports my contention that the banking elite created an on-line corporate organism, camouflaged in name as the "*United States*," to eventually absorb the entire U.S.A. "Reverse engineering" American history, **isn't that exactly what happened?**

It couldn't have possibly occurred without Alexander Hamilton, though he was not to enjoy the fruits of his tree. In an 1804 duel, he was to be killed by a man whose presidential goal he had thwarted, Vice President Aaron Burr. Two years prior his death, in a letter to G. Morris, Hamilton puled:

Mine is an odd destiny. Perhaps no man in the United States has sacrificed or done more for the present constitution than myself; and contrary to all anticipations of its fate...from the very beginning, I am still laboring to prop **the frail and worthless fabric**, yet I have the murmurs of its friends no less than the curses of its foes for my reward. What can I do better than withdraw from the scene? **Every day proves to me more and more that the American world was not made for me.**

A scorned, disinherited youth of St. Croix, lusting for Fame, despising the agrarian world and seeking to remake his adopted land in his own industrial image, Hamilton never did quite fit in. With Caesar his hero and utterly contemptuous of humanity, this man of peculiar genius and Herculean energy would eventually alienate even his old colleague Madison. As Palmer remarked in *The Age of Democratic Revolution* (vol. 2, 523), Hamilton was "*the nearest thing the United States had ever produced to a Bonaparte.*"

A temporary setback for the Federalists

Jefferson and the Republicans would drub Hamiltonian Federalists in the 1800 election. (The NYC Federalists were so horrified that they nearly seceded!) Hamilton had ridden his wave well, only to crash on the sand bar of agrarian conservatism. However, Hamiltonian machinery was firmly entrenched in the new nation, as Jefferson later realized:

*When this government was first established, it was possible to have kept it going on true principles, but the contracted, English, half-lettered ideas of Hamilton destroyed that hope in the bud. **We can pay off his debts in 15 years: but we can never get rid of his financial system.*** (This was the very idea. KWR)

-- to Dupont de Nemours

*Hamilton's debt policy also aimed to effect a balance between the level of debt and the national capacity to pay, **based on a plan of using the [public] debt to augment the nation's supply of circulating capital.** ... **The object of the debt, however, was to convert the depreciated bonds into credit instruments that could pass for additional capital for the expansion of industry.***

-- Frank Bourgin; *The Great Challenge--The Myth of Laissez-Faire in the Early Republic* (1989), p.75

Though his wave had crashed, the Hamiltonian current remained, patiently biding its time:

Federalism has changed its name and hidden itself among us...as strong as It has ever been since 1800.

-- Thomas Jefferson to Albert Gallatin (1823)

*The results [of Hamilton's programs]--legislative and administrative--were stupendous and can never be repeated. **A government is organized once and for all, and until that of the United States fairly goes to pieces, no man can do more than alter or improve the work accomplished by Hamilton and his [Federalist] party.***

-- Henry Adams; *The Life of Albert Gallatin* (1879), p.268

Hamiltonianism would resurface as a tidal wave in 1913 with the Federal Reserve System and Income Tax Act. By the 1990's, however, it would at last begin tripping on another sand bar--the American Freedom Movement.

THE HARD TRUTH

We live in a world of frightful givens.

-- Dr. Ian Malcolm; *Jurassic Park* by Michael Crichton

...the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory (!) upon all. The very idea of the power, and the right of the people to establish Government, pre-supposes the duty of every individual to obey the established Government. (Well, what would you expect a general to say? KWR)

-- President Washington in his 1796 farewell address

*The liberty of a circus elephant is restrained to a confined area by a chain that binds him. Though this chain is but a thread compared to his massive bulk it provides control because the elephant falsely believes the chain cannot be broken. **This false belief is ingrained into the elephant's mind by the trainer at infancy** by chaining the elephant to a stake when the chain was strong enough to bind him. Once this hoax is established it is all that is needed to control the adult elephant to act the way the trainer wants it to act. **The elephant is controlled by the trainer's humbug.***

-- Frank Kowalik; *IRS Humbug*

***It is error alone which needs the support of government
Truth can stand by itself.***

-- Thomas Jefferson

A book which greatly affected my outlook on the Constitution and our system of government is *No Treason: The Constitution of No Authority* by Lysander Spooner. A practicing ju-

rist, Spooner challenged the postal monopoly with his own thriving private service, The American Letter Mail Company (which was outlawed by Congress in 1845). *No Treason* is a mere 57 pages in length, and utterly brutal in truthfulness.

In 1870, Spooner devastated the notion that America is governed by lawful consent with this simple observation: The Constitution is *supposed* to be a compact between "*the people*" and their agents, yet I never signed such. Well, if I *never signed* an agreement giving government agents power over me, then how can they allege my "consent" and lawfully act as my duly authorized "agents?" How can men (especially those long since dead) presume to bind my nonviolent actions via a document which I, not only never signed, *but was not even alive* during its creation? Spooner asks the great rhetorical question:

Where would be the end of fraud and litigation, if one party could bring into court a written instrument, without any signature, and claim to have it enforced, upon the ground that it was written for another man to sign?... Yet that is the most that could even be said of the Constitution. The very judges, who profess to derive all their authority from the Constitution--***from an instrument that nobody ever signed--would*** spurn any other instrument, not signed, that should be brought before them for adjudication...

Moreover, *this supposed contract, which would not be received in any court of justice...is one by which...all men, women and children throughout the country, and through all time, surrender not only their property, but also their liberties, and even lives, into the hands of men who by this supposed contract, are expressly made wholly irresponsible for their disposal of them. And we are so insane, or so wicked, as to destroy property and lives without limit, in fighting to compel men to fulfill a supposed contract, which, inasmuch as it has never been signed by anybody,....*

Awesome questions. Embarrassing questions, actually.

Important! Do not misconstrue Spooner--he was *not* an anarchist. He simply pointed out the nature of our system: government agents are elected by secret ballot, and thus may operate without direct responsibility for their actions by claiming "*sovereign immunity*." **He merely de-**

manded that consent of the governed be honest and open through individual signature of contract between the people and their agents. The time has come and technology is now capable of truly recreating government with a relationship of actual *consent* of the governed. That's what *Hologram of Liberty* seeks to help accomplish. Introducing the 1973 reprint of *No Treason*, James J. Martin wrote:

Since late Neolithic times, men in their political capacity have lived almost exclusively by myths. And these political myths have continued to evolve, proliferate, and grow more complex and intricate, even though there has been a steady replacement of one by another, over the centuries. ...[These myths] attempt to examine the origins of the State with little or no attention to its historic record, and then try to justify and fortify it in the face of criticism...

Vasilii Klyuchevski, the giant of historical scholarship in the last century of Czarist Russia, put it best: ***"The State swells up; the people diminish." Part of the reason for this [in America] has been the much more opaque and intangible nature of the adversary. ... The tying of political tenure to astronomy (of regular elections) instead of dynasty has removed the possibility of a long-enduring personal symbol [of monarchy] from the scene. And a massive obstacle has been created as a result of the homogenization growing out of mass voting, mass taxpaying, mass gun-bearing, and mass dispersal of the tidbits bestowed by the State: a vast, gray, shapeless enterprise (bureaucracy) has come into being, with which it has been difficult to come to grips, as in the manner of classical conflicts with the State.***

... The American genius has been concentrated in perfecting vague and generalized secular verbiage; elusive, imprecise terminology which often sets the line for seemingly interminable battlegrounds of conflicting interpretation. Expressions such as "general welfare," "public good," "social contract," "general will," ..., come to mind.

Of course, the crowning achievement in the American experience was the production of the Constitution, the ultimate verbal bastion on which is perched the American State. Constitution-worship is our most extended public political ritual, frequently supervised as often by mountebanks as by the sincere. ... For though we have had over a century of native critics and opponents of our

State...the Constitution has largely been exempted or neglected in the unfolding of this critical tradition....

Consequently, in view of the evanescent nature of power tenure in this country, the frequent unhorsing of the holders and exercisers of State power is looked upon with equanimity and not considered a threat in any way to the State. **It is the assault upon the abstract and verbal underpinnings of this institution** (the "rules of the game," remember?) **which draws blood, so to speak.** If one can consider all the participants in the struggle to control and use the State as those engaged in a game..., then those who seek to destroy the abstract-verbal justification for such "play" are endangering the future course of all the players by riddling the rule books, which describes how such play is to be conducted while giving it a *raison d'etre* besides. **Those who attack the rationale of the game, and not the players, are its most formidable adversaries.**

It in light of this that those who have the temerity to collide head-on with the Constitution and challenge its validity in toto stand out in such sharp outline and radiate a quality of uniqueness in the American anti-State library. And at the head of this category stands Lysander Spooner...

His effort..was devoted to revealing how far removed from a "government by consent" or a "voluntary union of free men" the actual situation really was.

For sheer audacity and breath-taking boldness, No Treason remains unmatched. One cannot call to mind anything to compare with it. In order to justify the continuance of the Constitution as the foundation-stone of the American State, one must seek other entrenched positions from which to make the defense than from that of any school of theoretical contractualism, after encountering Spooner.

No Treason presumes a bit more than minimum acquaintance with political and legal theory and practice, and the semantics of Statism, on the part of its readers. But one is unlikely to encounter another exercise in thinking which exceeds it in providing a more brilliant insight into the mystical speculative presumptions of the apologists for constitutionally-based Statism whose ideological roots are lodged in eighteenth century beliefs.

Spooner surely ought to be helpful to those who are just beginning to perceive the basis frailty of anonymous parchment guarantees of security of "life, limb and property," and

the essential feebleness of documentary restraints on the exercise of political savagery. When the will to rob, to imprison, and/or to kill once more asserts itself in the form of State policy somewhere, disguised as usual as a heroic gesture in behalf of "public safety," "national security," "safeguarding the State," "ensuring the public welfare," or any of a score or more of other related verbal reflexes designed to conceal the realities of statecraft from those whose lot it is to do the paying, the bleeding and the dying, **familiarity with Lysander Spooner should provide enlightenment as to why in these "crises" the impact of paper and ink limitations on the wielding of power is almost imperceptible in the face of politico-military bureaucratic initiative.** (On the lowest level of operational reality, one may recollect the venerable commentary, **"The constitution is what the cop on the beat says it is,"** a formidable and enduring contribution of boulevard wisdom to "political science,"...)

No Treason contains 19 essays refuting common myths. Essay III deals with taxes:

The payment of taxes, being compulsory, of course furnishes no evidence that any one voluntarily supports [and is bound to] the Constitution.

1.*the theory of our Constitution is, that all taxes are paid voluntarily; that our government is a mutual insurance company,...*

But this theory of our government is wholly different from the practical fact. The fact is that the government, like a highwayman, says to a man: "Your money or your life." And many, if not most, taxes are paid under the compulsion of that threat.

The government does not, indeed, waylay a man in a lonely place, spring upon him from the roadside, and, holding a pistol to his head, proceed to rifle his pockets. But the robbery is none the less a robbery...and is far more dastardly and shameful.

The highwayman takes solely upon himself the responsibility, danger, and crime of his own act. He does not pretend that he has any rightful claim to your money, or that he intends to use it for your own benefit. He does not pretend to be anything but a robber. He has not acquired impudence enough to profess to merely a "protector," **...Furthermore, having taken your money, he leaves you,**

as you wish him to do. He does not persist in following you on the road, against your will; assuming to be your rightful "sovereign," on account of the "protection" he affords you. He does not keep "protecting" you,...by requiring you to do this, and forbidding you to do that;... **In short, he does not, in addition to robbing you, attempt to make you either his dupe or his slave.**

The proceedings of those robbers and murderers, who call themselves "the government," are directly the opposite of these of the single highwayman.

In the first place, they do not, like him, make themselves individually known; or, consequently, take upon themselves personally the responsibility of their acts. On the contrary, they secretly (by secret ballot) designate some one of their number to commit the robbery in their behalf, while they keep themselves practically concealed. They say to the person thus designated:

Go to A___ B___, and say to him that "the government" has need of money to meet the expenses of protecting him and his property. **If he presumes to say that he has never contracted with us to protect him, and that he wants none of our protection,** say to him that that is our business, and not his; that we choose to protect him, whether he desires us to do so or not; and that we demand pay, too, for protecting him. **If he dares to inquire who the individuals are, who have thus taken upon themselves the title of "the government,"** and who assume to protect him, and demand payment of him, say to him that, too, is our business, and not his;.../f he **refuses to comply,** seize and sell enough of his property to pay not only our demands, but all your own expenses and trouble beside. **If he resists the seizure of his property,** call upon the bystanders to help you (doubtless some of them will prove to be members of our band). **If, In defending his property, he should kill any of our band who are assisting you,** capture him at all hazards; charge him (in one of our courts) with murder; convict him, and hang him. **If he should call upon his neighbors,...and they should come in large numbers to his assistance,** cry out that they are all rebels and traitors; that "our country" is in danger; call upon the commander of our hired murderers; tell him to quell the rebellion and "save the country,".... Tell him to kill all who resist, though they should be hundreds of thousands; and thus strike terror into all other similarly disposed. See

that the work of murder is thoroughly done; that we may have no further trouble of this kind thereafter.

4. All political power,...rest practically upon this manner of money. Any number of scoundrels, having money enough to start with, can establish themselves as a "government"; because,...they can hire soldiers, and with soldiers extort more money; and also compel general obedience...

For this reason, whoever desires liberty, should understand these vital facts, viz.: 1. That every man who puts money into the hands of a "government" (so called), puts into its hands a sword which will be used against himself, to extort more money from him, and also to keep him in subjection to its arbitrary will. 2. That those who will take his money, without his consent,...will use it for his further robbery and enslavement, if he presumes to resist their demands in the future. 3. That is a perfect absurdity to suppose that any body of men would ever take a man's money without his consent, for...protecting him;... 4. If a man wants "protection," he is competent to make his own bargains for it; and nobody has any occasion to rob him, in order to "protect" him against his will. 5. That the only security men can have for their political liberty, consists in their keeping their money in their own pockets, until they have assurances, perfectly satisfactory to themselves, that it will be used...for their benefit, and not for injury. 6. That no government,...can reasonably be trusted ...any longer than it deserves... voluntary support.

These facts are all so vital and so self-evident, that it cannot reasonably be supposed that any one will voluntarily pay money to a "government," for the purpose of securing its protection, **unless he first makes an explicit and purely voluntary contract with it for that purpose.**

DEATH BY "DEMOCRACY"

Turning his well-honed ire towards "democracy" Spooner continues in VI:

A man is none the less a slave because he is allowed to choose a new master once in a term of years...

The right of absolute and irresponsible dominion is the right of property, and the right of property is the right of absolute, irresponsible dominion. The two are identical; the one necessarily implying the other. Neither can exist without the other. If, therefore, Congress have that ab-

solute and irresponsible law-making power, which the Constitution--according to their interpretation of it, gives them in [in 1:6:2], **it can only be because they own us as property.** If they own us as property, they are our masters, and their will is our law. If they do not own us as property, they are not our masters, **and their will,..is of no authority over us.**

But these men who claim and exercise this absolute and irresponsible dominion over us, dare not to be consistent, and claim either to be our masters, or to own us as property. They say that they are only our servants, agents, attorneys, and representatives. But this declaration involves an absurdity, a contradiction. No man can be my servant, agent, attorney, or representative, and be, at the same time, uncontrollable by me, **and irresponsible to me for his acts.**

For still another reason they are neither our servants, agents, attorneys, nor representatives. And that reason is, that we do not make ourselves responsible for their acts. If a man is my servant, agent, or attorney, I necessarily make myself responsible for all his acts done within the limits of the power I have intrusted to him.... **But no individual who may be injured in his person or property, by acts of Congress, can come to the individual electors, and hold them responsible for these acts of their so-called agents or representatives.**

If, then, nobody is individually responsible for the acts of Congress, the members of Congress are nobody's agents. And if they are nobody's agents, they are themselves individually responsible for their own acts, and for the acts of all whom they employ. And the authority they are exercising is simply their own individual authority; and, by the law of nature--the highest of all laws--anybody injured by their acts, anybody who is deprived by them of his property or his liberty, has the same right to hold them individually responsible, that he has to hold any other trespasser individually responsible. **He has the same right to resist them, and their agents, that he has to resist any other trespassers.**

We have a "limited liability" government just like "limited liability" corporations! *Corpus Juris Secundum* (19:XVIII, Sections 883-4) defines the United States government as a foreign corporation with respect to the states. Corporate stockholders (voters) have no liability for the acts of their

managers (Congressmen), who are themselves not legally responsible for corporate injuries to the public.

Our "democracy" operates in an even finer system of irresponsibility. The government cannot be sued unless it so consents, and its "corporate managers" (Congressmen) cannot be held accountable outside their "boardroom"--the "corporate charter" says so in 1:6:2!

In VIII, Spooner levels the mythical foundation of government authority--democratic sanction:

A tacit understanding between A, B, and C, that they will, by ballot, depute D as their agent, to deprive me of my property, liberty, or life, cannot at all authorize D to do so. He is none the less a robber, tyrant, and murderer, because he claims to act as their agent, than he would be if he avowedly acted on his own responsibility alone.

...[The voters'] ballots are given in secret, and therefore in a way to avoid any personal responsibility for the acts of their agents.

No body of men can be said to authorize a man to act as their agent, to the injury of a third person, unless they do it in so open and authentic a manner as to make themselves personally responsible for his acts... Therefore these pretended agents cannot legitimately claim to be really agents.

Men honestly engaged in attempting to establish justice in the world, have no occasion thus to act in secret; or to appoint agents to do acts for which they (the principals) are not willing to be responsible.

The secret ballot makes a secret government; and a secret government is a secret band of robbers and murderers. Open despotism is better than this. (And more easily attacked, which accounts for the newer and better form of secret despotism. KWR) *The single despot stands out in the face of all men, and says: I am the State: My will is law: I am your master: I take responsibility for my acts: The only arbiter I acknowledge is the sword: If any one denies my right, let him try conclusions with me.*

But a secret government is...a government of assassins. Under it, a man knows not who his tyrants are, until they have struck, and perhaps not[even] then.

This is the kind of government we have; and it is the only one we are likely to have, until men are ready to say: We will consent to no Constitution, except such a one as we are neither ashamed nor afraid to sign; and we will authorize no government to do anything in our name which we are not willing to be personally responsible for.

In XIX, Spooner concludes:

The lesson taught by all these facts is this: As long as mankind...are such dupes and cowards as to pay for being cheated, plundered, enslaved, and murdered--...soldiers, can be hired to keep them in subjection. But when they refuse any longer to pay for being thus cheated, plundered, enslaved, and murdered, they will cease to have cheats, and usurpers, and robbers, and murderers and blood-money loan-mongers for masters.

Alexis de Tocqueville also understood democracies well:

I think, then, that the species of oppression by which democratic nations are menaced is unlike anything that ever before existed in the world; our contemporaries will find no prototype of it in their memories. I seek in vain for an expression that will accurately convey the whole of the idea I have formed of it; the old word despotism and tyranny are inappropriate; the thing itself is new, and since I cannot name it, I must attempt to define it.

I seek to trace the novel features under which despotism may appear in the world. The first thing that strikes the observation is an innumerable multitude of men, all equal and all alike incessantly endeavoring to procure the petty and paltry pleasures with which they glut their lives. Each of them, living apart, is as a stranger to the fate of all the rest; his children and his private friends constitute to him the whole of mankind. As for the rest of his fellow citizens, he is close to them, but he does not see them; he exists only in himself and for himself alone, and if his kindred still remain to him, he can be said...to have lost his country.

Above this race of men stands an Immense and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate. That power is absolute, minute, regular, provident, and mild. It would be like the authority of a parent if, like that authority, its object were to prepare men for manhood; ***but It seeks, on the contrary, to***

keep them in perpetual childhood; it is well content that the people should rejoice, provided that they think of nothing but rejoicing. For their happiness such a government willingly labors, but it chooses to be the sole agent and the only arbiter of their necessities, facilitates their pleasures, manages their principal concerns, directs their energy, regulates the descent of property, and subdivides their inheritances; **what remains, but to spare them all the care of thinking and all the trouble of living?**

Thus it every day renders the exercise of the free agency of man less useful and less frequent; it circumvents the will within a narrower range and gradually robs a man of all the uses of himself. The principle of equality has prepared man for all these things; it has predisposed them to endure them, and often to look on them as benefits.

-- Democracy in America (1831)

The myth of "*the people*"

In a way, the world-view of the Party imposed itself most successfully on people incapable of understanding it. **They could be made to accept the most flagrant violations of reality, because they never fully grasped the enormity of what was demanded by them, and were not sufficiently interested in public events to notice what was happening. By lack of understanding they remained sane. They simply swallowed everything, and what they swallowed did them no harm, because it left no residue behind, Just as a grain of corn will pass undigested through the body of a bird.**

-- George Orwell; 1984

The more ridiculous a belief system, the higher the probability of its success.

—Wayne R. Bartz

Under Communism, where everybody ("*the people*") allegedly owns everything collectively, nobody *really* owns anything. Without individual ownership, there is no incentive to maintain property. That's why the entire Soviet bloc resembled a public restroom. (I toured the bloc for months, several times, so I have personal knowledge of this.) Similarly, under our "democracy," where everybody ("*the people*") is the State, the State is nobody in particular. **Without individual politi-**

cal responsibility, there is no incentive to diligently supervise political agents and their actions. Nobody "owns" their political agents (politicians), therefore they may, and do, act without restraint.

"*The people*" are simultaneously everybody, and nobody. That's why lecturing an uppity bureaucrat with the "I-pay-your-salary" speech achieves only a smirk. The bureaucrat understands: he's responsible only to "*the people*"--**not you**.

Challenging this myth of "*the people*" can have interesting results. The ideal place (if you've got the courage, time, and money) for such a challenge is in court, as individuals are charged, criminally and civilly, in the name of "*the people*."

Volume 3, No. 1 issue of *AntiShyster* (214-418-8993) covered such a challenge (*Sparring with a Judge*) in which a Kenneth T. Dill threw the New York Putnam County court into fits. After cleverly forcing the Judge Howard F. Stockfield to admit "***There is no Plaintiff in this case.***" Dill then asked "***Where are the injuries and damages?***" and stated that "***I don't understand who's my accuser. It says... the People of the State of New York.***" When the judge acknowledged this, Dill then countered, "***O.K., I'm one of the People.***" Flummoxed, Judge Stockfield and the D.A. conspired to throw Dill into a psychiatric institution for evaluation as to whether Dill had the mental capacity to understand the charges! Dill responded, "***I have no mental illness and am college educated.***" The court being unmoved, Dill asked, "***But, don't I have a right to inquire about the natures of the charges, like I'm doing right now?***" and Stockfield replied, "***Not based on your questions. You apparently don't have any understanding or the capacity to understand them.***" (Dill) "***But I'm inquiring about them right now and you're not listening to me.***" (Court) "***I'm ordering a psychiatric evaluation.***" (Dill) "***7 order you not to.***" (Wow! Now this is courage! KWR)

Dill was released three days later through the efforts of a friend and all charges were dropped. If you challenge the legal fiction of charges without a damaged party, then you might be adjudicated crazy. This was a favorite Communist tactic and it's happening here in Amerika--the "U.S.S.A."

The madness of modern "law enforcement"

*Government now appears more concerned with dictating personal behavior than with protecting citizens from murderers, muggers, and rapists. In 1990, for the first time in history, the number of people sentenced to prison for drug violations **exceeded the number...sentenced for violent crimes.***

-- James Bovard; *Lost Rights*, p.5

*And yet, who isn't [above the law]? Everywhere you prod it, even with the shortest stick, the established system isn't simple corrupt, it's unequivocally putrescent. The law is created by demonstrable criminals, enforced by demonstrable criminals, interpreted by demonstrable criminals, all for demonstrably criminal purposes. **Of course I'm above the law. And so are you.***

-- L. Neil Smith; *Pallas*

Laws are like cobwebs, for any trifling or powerless thing falls into them, they hold it fast; but if a thing of any size falls into them, it breaks the mesh and escapes.

-- Anacharsis

If you take all this to heart and refuse to further comply with the fraud, the government will seek to force you, first through the courts, and then through armed men with guns in your face. If you morally resist and offer defense, you are likely to be wounded and imprisoned, if not killed outright.

The cold truth is this: **There is no purpose of government so vital as to justify theft from, injury to or death of peaceable Americans for mere nonpayment of taxes or nonviolent civil disobedience.** *Nothing* that our government does or claims to provide is so important that passive, hard-working folks should be evicted from their homes, have their businesses shut down, and imprisoned for mere nonpayment of taxes. It is that simple!

If the government encounters the rare individual *who is so certain of his legal & moral standpoint* that he would rather risk death in defending his property and liberty against State theft than allow its armed seizure--then the **government should at once retreat and thereafter leave him alone.** But does the government ever leave such an individual alone? Never! To imprison/kill him and seize

his property, though morally outrageous, offers the economic bargain of "threat by example." Calculating that only a respective handful of people will ever resist with this fervor, such intrepid souls are deemed expendable in light of the "chilling effect" their imprisonment/death will have on the populace. Although a \$300,000 dollar raid for murder (and \$60,000 per year for incarceration, assuming he survives the attempt on his life) is no small amount of money, the *billion* which it indirectly assures in docilely collected taxes is well worth the expense.

*America needs fewer laws, not more prisons. By trying to seize more power than is necessary over American citizens, **the federal government is destroying its own legitimacy.** ... The ideal is not to abolish all government--but to structure government to achieve the greatest respect for citizens' rights and the least violation of their liberties.*

-- James Bovard; *Lost Rights*, p.6

Just so. I **am for Law and Order--not laws and orders.** Honest, peaceable folks should have *nothing* to fear from their government and its laws.

ON THE STUDY OF LAW

*So long as justice can be demanded only by professional lawyers, so long will the knowledge of it be the exclusive property of the profession, and none will think it worthwhile to read what to him appears useless. **If, on the contrary, if it was not necessary to employ these professors to ask for Justice, law would soon become a part of academic study,** and no youth would leave college without reading Blackstone and Wilson; they would bring home their books of law, with their books of history, geography and ancient languages. By this means, and the practice every man would find in his private business, in helping his neighborhood to settle and adjust disputes, etc., society would be prodigiously advanced in knowledge and respectability of talents for legislators and statesmen.*

-- William Duane, editor of the *Aurora* (1786)

In Volume 5, No. 3 of *the AntiShyster*, Al Adask has a great editorial on page 57. He begins:

In 1765--just ten years before the American Revolution broke out with the battles of Lexington and Concord--Sir Edmund Burke delivered the following address to the English Parliament concerning the...colonials' dangerous habit of studying law:

He then quoted the address (2 Burke's Works 28):

Permit me, Sir, to add another circumstance in our colonies, which contributes no mean part toward the growth and effect of this intractable spirit. I mean their education. In no country perhaps in the world is the law so general a study. All who read, and most do read, endeavor to obtain some smattering of that science.

*I have been told by an eminent bookseller, that in no branch of his business, after tracts of popular devotion, **were** so many books as those on the law exported to the plantations. The colonies have now fallen into the way of printing them for their own use. I hear they have sold nearly as many of Blackstone's Commentaries in America as in England. General Gage states that all the people in his government are lawyers, or smatterers in law; and that in Boston they have been enabled, by successful chicane, wholly to evade many parts of your capital penal constitutions.*

...when great honors and great emoluments do not win over this knowledge to the service of the state, it is a formidable adversary to government.

If the spirit is not tamed and broken by these happy methods, it is stubborn and litigious. This study renders men acute, inquisitive, dexterous, prompt in attack, ready in defense, full of resources.

*In other countries, the people, more simple and of a less mercurial cast, judge of an ill principle in government only by an actual grievance; **here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment from a distance, and snuff the approach of tyranny In every tainted breeze.***

Adask then summarizes:

As in 1765, government is again oppressing the American people. As in 1765, government now claims it is above the law and master--not servant--to the People. But once again,

Americans are also beginning to study law and insist government obey the law.

If those who refuse to learn from history are truly condemned to relive it, the implications are obvious and the government's ultimate defeat inevitable. As in the first American Revolution, those who study the law will again learn what is Right, will learn that Right Makes Might, and based on that Righteousness, will overcome our oppressive government.

Wars are spiritual battles won in the hearts and minds of the people, and the only weapon of consequence is the sword of Righteousness. **Without Righteousness, government power is hollow, fraudulent, based more on Illusion than reality.** By itself, government Might failed the English in the American Revolution, failed the United States in Viet Nam, and failed the Soviet Union in Afghanistan--and **will fail again in a confrontation with the American people.**

The question is, will government Might fail in time?

THE CONSTITUTION'S FUTURE

Time and time again during the Philadelphia Convention, this assemblage of men who feared and loathed democracy found it necessary to show some [putative] regard for popular sentiment (as with the direct election of the lower house). If the Constitution was going to be accepted by the states and if the new government was to have any stability, it had to gain some measure of popular acceptance; **hence the founders felt compelled to leave something for the people.**

... The delegates "gave" nothing to popular interests, rather--as with the Bill of Rights--they reluctantly made concessions under the threat of democratic rebellion. **They kept what they could and grudgingly relinquished what they felt they had to,...**

-- Michael Parenti; *Democracy for the Few*, 5th ed. (1988)

Basically, the Constitution is politically "schizophrenic." It is of two personalities, trying to serve two opposite forces: Freedom and Big Government. **It has been a lackluster servant of both.** Given its origin, it's no surprise that the Insiders realized this first. In a conversation to Washington, Jefferson relayed the overheard remarks of Hamilton:

[The Constitution] was a *shilly-shally* (vacillating) thing of mere milk and water, **which could not last, and was only good as a step to something better.**

-- 1 October 1792--Bergh 1:318

Remember, the Constitution erected "*an incomplete national government.*" I'm grateful for at least *that*. My deep dissatisfaction with the document notwithstanding, there is still enough within the Constitution to at least *partially* hobble federal hegemony, if only the people would make a grand effort. The Constitution, however, "pulls so strongly to the left" that nothing less than a grand effort, consistently applied, will work. I'm speaking of a harsh and regular housecleaning of Congress (especially the Senate) and monthly street demonstrations. From there, dozens of judicial impeachments should follow. This "grand effort" is not likely, though it is theoretically possible, thanks to the constitutional concessions forced by the anti-federalists 200 years ago.

While the "rules of 1787" have allowed spectacular growth, the Government cannot become, under those same rules, *utterly* complete. That's why the Insiders have strived earnestly to replace the Constitution since the 1970's:

*Let us face reality. The framers [of the Constitution] have simply been too shrewd for us. They have outwitted us. They designed separated institutions that cannot be [totally] unified by mechanical linkages, frail bridges, tinkering. If we are to 'turn the founders upside down'--to put together what they put asunder--we **must directly confront the constitutional structure they erected.*** (So must we. KWR)

-- *The Power To Lead*; Prof. James MacGregor Burns, board member on the Committee of the Constitutional System

Freedom-minded Americans have yet to realize the Constitution's shady history and great shortcomings. *Hologram of Liberty* is the first modern treatise on the matter and if, by sheer hysteria, it is rejected *sans* scholarly refutation, then Americans will continue to idol-worship the document with dwnbfoundingly meager results. "*Hear me now or believe me later*"--the Constitution does not currently offer any direct, effective harnessing of federal dominion. I'll utterly prove this in the next chapter.

Whoever significantly revises (or replaces) the Constitution automatically wins the *next* battle for America. (Whether or not they would *sustain* that victory is uncertain.) **In short, only one of two things can happen:**

○ The Globalists will, via a surprise Constitutional Convention through the Balanced Budget Amendment or the "Conference of States," scrap it entirely for a truly draconian UN-style replacement ("*The Constitution of the Newstates of America*"),

or...

○ Liberty-conscious Americans will at last sufficiently amend it: "*Let us pick off the meat and throw the bone away.*" as Samuel Thompson so earthly advised to the 1788 Massachusetts convention.

Whichever occurs is, in the long run, almost irrelevant. **The tidal wave of tyranny *will* crash.** Evil is never seamless throughout history. Not a marathon runner--Evil *sprints*, loses its wind and is temporarily overtaken by Truth and Virtue. The globalist Finish Line is just within sight and Evil is pouring on its last residue of speed. It will prove to be a breath short. **The tidal wave of tyranny *will* crash. The only question left is this: *will enough* hardy souls make it to high ground?**

Will there be enough bright and individuated people left to clear the wreckage and rebuild on a foundation other than the shrieking cynicism of Hamiltonianism and its secular arrogance? We'll know in about 20 years...

CURE THE PATIENT, KILL THE DOCTOR

It may be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satisfied; but those who torment us for our own good will torment us without end, for they do so with the approval of their own conscience.

--C.S. Lewis

All that is needed to give rise to a mighty nation, generate a wave of perpetual progress and prosperity within it, even revive a dying civilization, is a simple irrevocable guarantee that individual members of the productive class be permitted to keep whatever they create. That is what America was supposed to have been about; its preeminence in the world is a direct result. Likewise, each of its failures ultimately stems from the gradual but unrelenting abrogation of that guarantee.

-- L. Neil Smith; Pallas

A thousand years hence, perhaps in less, America may be what Europe is now...the noblest work of human wisdom, the grand scene of human glory, the fair cause of freedom that rose and fell.

-- Thomas Paine

WHAT CAN BE DONE NOW?

Unless some very intelligent, long-range plans are *very soon* effected with the goal of Liberty--the very intelligent, long-range plans for Global Tyranny *will* prevail. Let's examine what we *can* indeed use within the constitutional system and discuss all the theoretical political remedies.

Dramatic reversals by the current:

Congress

Unlikely. Remember the so-called "Revolution of 1994" and its "Contract With America" ? Even that mild stuff failed. Nearly 2/3rds of Americans feel that they have little or no influence on Congress. They're right--they *don't*.

What America would require is the repeal of the Federal Reserve Act, the Social Security Act, the Income Tax Act, the various UN participation acts, the Trading With The Enemy Acts, the National Firearms Act of 1934, the Gun Control Act of 1968, Brady, the "Anti-Terrorism" Act, etc. Many folks would also appreciate the elimination of fascist "civil forfeitures" and the long overdue decriminalization of low-THC hemp cultivation (which would happily replace trees as the paper source!), if not quitting the "War On Drugs" ("War On Cash and Privacy") and its fascist civil forfeitures.

Until there are term limits *and* a no-confidence vote to remove unpopular Congressmen from office midterm (don't expect the Congress to propose such to the states!), the incredible political pressure required for such massive repeals simply cannot be exerted. Finally, since only Congressmen can impeach Congressmen, don't hold your breath. The only one ever impeached was in 1797.

President

Less likely still. It seems we'll have Clinton until noon, 20 January 2001, and he is not even remotely a friend of freedom or limited, responsible government.

Supreme Court

Most likely yet, but still very unlikely until we get some better Justices. This won't be for a while as we have a

comparatively young court. Also, you can forget about impeachment--the only example was Justice Chase in 1804.

Since the *number* of Justices is not limited by the Constitution, a righteous President and Congress could "pack the Court" with additional members to gain desirable rulings. FDR successfully threatened to do this very thing after his first batch of Socialism was overturned. (One Justice knuckled under, which gave rise to that misquoted saying, "*A switch in time saved nine.*")

Impeachment of Congressmen and Justices

The House of Representatives...shall have the sole power of impeachment (indictment).

-- L2:5; Constitution for the U.S.A.

*The Senate shall have sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief-Justice shall preside: and no person shall be convicted without the concurrence of two-thirds **of the members present**. (Note: No quorum is required. As few as 3 Senators could preside. KWR) Judgment, in cases of impeachment, shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the [federal] United States. But the party convicted shall nevertheless be [criminally] liable and subject to indictment, trial, judgment, and punishment, according to law.*

-- 1:3:6-7; Constitution for the U.S.A.

The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high [political] crimes and misdemeanors.

--II:4:1; Constitution for the U.S.A.

[The President] shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachments.

--II:2:1; Constitution for the U.S.A.

*The Judges, both of the Supreme and inferior Courts, shall hold their offices **during good behavior**.*

-- III:1:1; Constitution for the U.S.A.

AS I mentioned earlier, impeachment of any significant characters is not likely. **Since 1940, there have been only *nine* impeachment investigations.**

While the device of impeachment was intended for non-criminal and nonstatutory *political* offenses (such as disregarding public interests, affronting the will of the people, or seizing the role of policy-maker) it has been cleverly perverted to deal only with *criminal* offenses. Most recent impeachments of federal judges have been only for criminal offenses: Claiborne for tax evasion in 1986, Hasting for bribery and perjury in 1988, and Walter Nixon, Jr. for perjury in 1989. (For a good, but unjustifiably optimistic, overview, read David Barton's *Impeachment!*, ISBN 0-925279-55-2.)

Congress no longer has the courage nor the inclination to impeach federal officials for *political* crimes, such as undermining the Bill of Rights. Senator Howell Heflin (former longtime member of the Judiciary Committee and former Chief-Justice of the Alabama Supreme Court) has asserted:

[D]ue process rights are being infringed by the current system used to remove federal judges from office.

-- "Impeaching Federal Judges: Making the Case for Change," *Trial*, November 1990, p. 32

The "*current system*" is actually the *original* system of impeachment--therefore, according to Heflin, the Constitution violates *itself*! Ridiculous. Anyway, as Justice Story warned:

[Impeachment should never become a power] so weak and torpid as to be capable of lulling offenders into a general security and indifference.

--Story; Vol. II, p. 218, §745

When Justice Samuel Chase was impeached in 1804 (for judicial high-handedness in *Marbury v. Madison*), Chief Justice Marshall became fearful:

[T]he present doctrine seems to be that a Judge giving a legal opinion contrary to the opinion of the legislature is liable to impeachment.

I think the modern doctrine of impeachment should yield to an appellate jurisdiction (which would have to be created) in the legislature. A reversal of those legal opinions deemed

unsound by the legislature would certainly better comport with the mildness of our character than a removal of the judge who has rendered them.

-- to Justice Samuel Chase, 23 January 1805; *The Papers of John Marshall*, Vol. VI, p. 347

Marshall preferred that Congress overturn an unpopular court decision rather than impeach the judge! **I say, do both.** He needn't have fretted: there have been only 61 federal judges or Justices investigated, of whom only 13 were actually impeached. More disappointing still, there have been only 3 nonjudicial impeachments: Senator Blount (1797), President Johnson (1868), and Secretary of War Belknap (1876).

The rulers who are guilty of such an encroachment [on the liberties of the people] exceed the commission from which they derive their authority and are tyrants. The people who submit to it are governed by laws made neither by themselves nor by an authority derived from them and are slaves.

-- James Madison; *Remonstrance* (1785), p.4-5

Today, the federal judiciary routinely overrules jury verdicts and popular referendums, and violates our rights. They know they're safe from political impeachment, the so-called "*bridle in the hands of the legislature*" (Hamilton). There's no longer a bridle. There's not even a *bit* in the judicial mouth.

New President who uses Executive Orders to wipe out oppressive bureaucracies

Exciting to contemplate, but unlikely. The party primary system and presidential election is thoroughly under control. I can't see how we'd ever get a *laissez-faire* candidate on the ballot, much less in office. Even if elected, he'd likely be run out of office by the shadow government through a contrived scandal (e.g., digitally-created pedophile photos).

Let's not be naive, folks--the Presidency is big stuff. Personally, I am convinced that nobody can even *become* a two-party candidate (much less get elected) unless already a longtime puppet of blackmailing CIA-types. (One book alleges exactly that. Whether hoax or truth, *Trance Formation of America* is very disturbing stuff.)

I'd forget about any presidential solution for a while--at least until a truly dramatic, independent candidate is viable. I've done the "math" and I just don't see it happening.

(The only way to sneak in an *unelected* person is to force the resignation of the Vice President, have Congress confirm your choice as the new VP, and then force the resignation of the President. All you'd need is sufficient leverage on the two incumbents and congressional approval of your replacement.)

Since the Freedom Movement is rapidly growing and consolidating its goals, we might even see a suspension of elections under the hollow guise of martial law. Some of my colleagues are expecting this in the 2000 Presidential elections, though I think that's a bit early.

Virtuous constitutional amendments

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution,...[to be ratified by three fourths of the state legislatures]

Article V, the Constitution for the U.S.A.

Does history abound with examples of a voluntary relinquishment of power, however injurious to the community? No; it would require a general and successful rising of the people to effect anything of this nature. This provision [of Article V] therefore is mere sound.

-- "Centinel" No. II

Give me \$10,000,000 and I can prevent any amendment to the Constitution from being ratified by the necessary number of states.

-- Franklin Roosevelt, to his cabinet in February 1937

Aside from the Bill of Rights, there have been only *three* amendment rollbacks of federal power--the 21st (repeal of Prohibition), the 22nd (Presidential two-term limit), and the 27th (congressional pay raises must be approved by voters).

Clearly, the history has been to *enlarge* federal authority by amendment, not reduce it. The overt examples are: the 14th (federal citizenship now independent and paramount; validity of the public debt unquestionable), the 16th (income taxation), the 18th (Prohibition), the 23rd

(D.C. represented in Congress as if a state), and the 26th (suffrage for young people only six years out of the sixth grade who have no adult experience).

Individual amendments may be proposed only by Congress. Although amendments beneficial to the people would probably be *ratified* by three-fourths of the states, the chance of two-thirds of *both* houses of Congress actually *proposing* any significant constitutional amendments is *nil*. Remember, it takes only 34 Senators or 146 Congressmen to block a two-thirds majority.

Why should we even be *surprised*? **This outcome is merely the Hamiltonian result of the constitutional "rules" of amendment procedure.** (Write the rules and the outcome is predetermined.) Even though the fleas control the flea powder, American voters still think elections make a difference. "*Throw the bums out!*" It doesn't matter. The actors change, but the constitutional play goes on as before. The "Republican Revolution" of 1994, for example, achieved *nada*.

Here's what we'd need, and good luck getting it:

☛ "*necessary and proper*" clause changed to "*absolutely indispensable and wholly proper*," and dispute over application to be decided by a local county court jury;

☛ the term "*United States*" to become nonoperative in law; the term "*states*" to mean solely the 50 states; the term "*Federal Government*" to mean the Federal Government; the term "*Federal territory*" to mean geographical jurisdiction of the Federal Government; and the term "*United States of America*" to mean the nation vis-à-vis other nations;

☛ Federal code titles to be *prefaced* by a chapter of all definitions, and all terms so defined shall be *italicized* for emphasis when used in the body of the title;

☛ allow independent submission by and ratification of constitutional amendments by the states--bypassing Congress;

☛ repudiation of the I:9:2 "rights suspendable in an emergency" doctrine and its concurrent executive orders;

- ✚ militias returned to utter command of state governors, with a separate amendment guaranteeing the right of peaceable Americans to collectively train with firearms;
- ✚ Congressional term limits and a no-confidence device;
- ✚ all congressional votes must be made on record;
- ✚ Congressmen cannot exempt themselves from their own legislation or regulations;
- ✚ amend I:6:1 to allow criminal trials and penalties for treasonous or unconstitutional legislation;
- ✚ salary increases for President, Congressmen and Justices must be approved by popular referendum;
- ✚ no federal pensions except for disabled veterans;
- ✚ correct the II:1:8 presidential oath of office, to wit: "*I do solemnly swear that I will faithfully execute the Office of President of the United States **of America**, and will to the best of my ability, preserve, protect and defend the Constitution **for** the United States **of America** and the Bill of Rights.*";
- ✚ repeal of the 14th and 16th Amendments, and ceiling on overall federal taxation as a percentage of GNP (to be determined by an aggregate of *private-sector* computations);
- ✚ all federal taxes replaced with an annual head tax due one week before the elections (April 15th is *exactly* six months *before* and six months *after* the November elections. Clever.);
- ✚ moratorium on new, and ceiling on total, public debt;
- ✚ monetary reform to recognize only gold and silver coin as money, and prohibiting government from selling credit;
- ✚ judicial term limits and reform;
- ✚ subjugation of treaties to participatory state sanction;
- ✚ "sunshine law" (expiration) for federal bureaucracies;
- ✚ repudiation of the unlimited "implied powers" doctrine;
- ✚ elimination of "sovereign" and "good-faith" immunities for government officials and employees;

- ☞ elimination of Article I tribunals, civil forfeitures, eminent domain, and licensed monopolies and professions;
- ☞ 4th Amendment "counsel" to mean any party, designated by the accused, irrespective of association membership or certification;
- ☞ a stronger 2nd Amendment, binding on the states, unequivocally professing and protecting the unalienable right of nonviolent *individuals* to own and carry weapons without restriction, regulation, taxation, or permission;
- ☞ Creation of a *third* house of Congress to *unmake* law with power also to impeach and try federal officials;
- ☞ inclusion of a "Reject" choice on all ballots and if no candidate receives more votes than "Reject" did, then a new election with different candidates shall be held;
- ☞ Fully Informed Jury Amendment (FIJA);
- ☞ strengthening of the grand juries to *real* independence, with monopoly power to indict;
- ☞ "due process" to mean (criminally and civilly) the *unanimous* verdict of twelve jurors in a local county court;
- ☞ "due process" required to validate all search and arrest warrants, and to deprive anyone of life, liberty and property;
- ☞ improperly or unconstitutionally gained evidence to be excluded from arraignment and trial proceedings;
- ☞ limiting the Supreme Court to 7 Justices, the jurisdiction of the inferior courts to admiralty/maritime/piracy cases, and all other cases (except Bill of Rights cases) to be tried in the state courts with the right of appeal to the Supreme Court;
- ☞ recipients of government checks, excluding disabled vets, denied suffrage until they return to the private sector;
- ☞ reform of Article V to bypass the Congress and state legislatures, allowing popular referendum for ratification.

None of this is likely to happen

Congress has thwarted all recent attempts to limit the federal government:

*By December 1962 the [Council's on State Governments] Committee on Federal-State Relations set three amendments before a General Assembly of the States meeting in Chicago. The first would change Article V so that further constitutional amendments could be proposed for ratification by action of two-thirds of the state legislatures **and without any involvement of either Congress or a federal convention.** The second would eliminate federal judicial authority over the apportionment of state legislatures. The third would establish a Court of the Union, composed of the chief justices of each state, with authority **to review Supreme Court decisions regarding federal-state relations.** Together, proponents said, these three states' rights amendments would reverse the trend toward centralization of power in federal hands.*

-- David E. Kyvig; *Explicit and Authentic Acts* (1996)

Take FIJA, for example:

An accused or aggrieved party's rights to trial by jury, in all instances where the government or any of its agencies is an opposing party, includes the right to inform the jurors of their power to judge the law as well as the evidence, and to vote on the verdict according to conscience.

This right shall not be infringed by any statute, juror oath, court order, or procedure or practice of the court, including the use of any method of jury selection which could preclude or limit the empanelment of jurors willing to exercise this power.

Nor shall this right be infringed by preventing any party to the trial, once the jurors have been informed of their powers, from presenting arguments to the jury which may pertain to issues of law and conscience, including (1) the merit, intent, constitutionality or applicability of the law in the instant case; (2) the motives, moral perspective, or circumstances of the accused or aggrieved party; (3) the degree and direction of guilt or actual harm done; or (4) the sanctions which may be applied to the losing party.

Failure to allow the accused or aggrieved party or counsel for that party to so inform the jury shall be grounds for mistrial and another trial by jury.

The purpose of *ajury* trial was to try also the *law* before the community. FIJA simply codifies what Americans well understood before the Civil War and would reinstitute the most important "check and balance" on the government. Jury nullification panics the politicians, which explains why FIJA hasn't yet passed a single state, much less the Congress.

It's simply not in Congress's best interest to propose FIJA or any of the above, and *if* some day enough political pressure *were* applied to them, they'd merely repeal the onerous Acts before offering lasting amendments. (They'd surrender the battle before utterly surrendering the *war*.)

Congress has even stymied the long-overdue abolishment (or restructuring) of the electoral college. Between 1796 and 1966 over 500 amendment resolutions were introduced to reform the method of choosing the President. We are still stuck with a system which has put into office a candidate who *lost* the popular vote but won the electoral count (Harrison in 1888), and candidates lacking an absolute majority (Wilson in 1912, Truman in 1948, and Clinton in 1996).

The amending procedure in Article V was designed to frustrate, if not *prevent*, a reduction of federal power.

The Article V process worked smoothly when amendment proponents had the support of congressional leaders and did not face significant legislative or popular opposition. In some cases, these conditions reflected broad agreement; in others, general indifference.... When substantial doubt remained, even though widespread popular and legislative support was present, the demanding requirements of Article V simply could not be met.... As the Founders had intended, the fundamental terms of the Constitution continued to be set, not by mere majorities, but by supermajority consensus. Constitutional change did not require unanimity, but it did demand acceptance by most substantial members of the political culture (which today includes the Insiders).

-- David E. Kyvig; *Explicit and Authentic Acts* (1996)

The Government, never satisfied, seeks more intrusive authority over our lives, and the people--finally--are growing angry. America today has fissured from a massive tectonic

stress. Within ten years, this stress will snap through one of three varieties of earthquake--political, economic, or social.

Virtuous Constitutional Convention {ConCon}

*...[O]n the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, **or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress;***

-- Article V of the Constitution for the U.S.A.

The *only* thing the states may do (*marginally* approved only in the *last* days of the 1787 Convention) is call for an outright ConCon, in which the entire Constitution could theoretically be up for grabs. **Remember how the 1787 Convention tossed out the Articles of Confederation?** The risk of our few residual rights going out a modern ConCon window is more perilous still, especially with all the unresolved issues:

What, if any, standards govern the convention procedure authorized by Article V--a procedure that has never been used? May Congress set conditions for determining when the constitutional prerequisites for calling a convention have been met? Do the terms of the Constitution control the organization and administration of a convention? May Congress impose enforceable limits or mandates on a convention? Is there any recourse if such a convention casts aside its mandate and /limitations? (Doubtful. There was no such recourse in 1787. KWR). May the convention set aside the requirements of Article V?

-- Richard B. Bernstein; *Amending America* (1993), p.248

While the states can, with supreme difficulty, bypass the Congress and call for a convention to propose amendments, this has never happened. (We nearly had a ConCon in 1912 to get the 17th Amendment, but since the Insiders weren't then secure, Congress simply passed the proposed amendment.) **A modern ConCon shouldn't be *allowed* to happen.** Although the only way *in law* the Constitution can be thoroughly revised against Congress's wishes, any modern ConCon will assuredly be controlled by a sinister cabal.

Any modern body of delegates would be overwhelmingly globalist, and today's electorate is shockingly ignorant and apathetic compared to the 1780's. Although a *righteous* Con-Con is just what Liberty needs to iron out the present Constitution, such is almost guaranteed to "runaway"--usurped by the international socialists.

There's no way to put a muzzle on a Constitutional Convention.

-- former Chief Justice Warren Burger

*It is a nice irony that the far Right--disguised as Conservatives--can take credit for so fundamental and radical an upheaval. In order to balance the budget by law...they have set in motion the great engine (the balanced budget amendment ConCon of the late 1980's) **that will overthrow the very Constitution that they insist be so strictly construed.***

-- Gore Vidal, Socialist writer

They know what they want more clearly than we do; they've planned for a ConCon longer than we have. They've already written *several* nasty replacement constitutions; we can barely agree on our basic principles.

The proposed 1995 "Conference of the States"

This was ConConII in disguise. Through diabolical cunning, that "Conference" would have first transformed into a ConCon, and *then* into the vehicle of *ratification--all. with full congressional and judicial backing.* We narrowly missed having a UN-style constitution overnight!

Regardless of what is proposed, by whom and how, Congress has the power in Article V to choose the device of ratification: state legislatures or state conventions. Even if the ConCon "Conference of the States" did *not* ratify their proposals in house, do you for one moment imagine that Congress would have allowed the proposed amendments or the "*Constitution of the Newstates of America*" to be considered by the state *legislatures*? No, Congress would have thrown the proposals to specially selected *conventions* (as the Federal Convention did in 1787-88) filled with sympathetic delegates anxious to toss out our Bill of Rights.

Watch out for a future disguised ConCon

The Insiders have not given up. In those intrepid states which rejected the Conference, 1996 term-limit legislation was introduced *containing an obscure clause to **reverse** the state's Conference rejection!* This clever ploy has passed in many states. Voters read the "term-limit" ballot headline and ignored the rest of the bill's language. Figures.

Stay alert for future efforts at a sneaky ConCon. I expect a very sudden and powerful try to slam-dunk us once again. Knowing the danger of this, I predict that their *next* attempt will be held, for fear of their very lives from rifle fire, in *cyberspace*. Eradicate our Bill of Rights by keystroke from computer-linked bunkers and let Dan Rather rapture in the "miracle" of it *all--that* would be about their style. (If such a monstrous event ever occurs, I'd say the gloves are off.)

Well, what about the 10th Amendment?

*Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation **expressly delegated** to the United States, in Congress assembled.*

-- Article II of the Articles of Confederation (1781)

The powers not ("expressly" omitted) delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

-- 10th Amendment; Constitution for the U.S.A. (1791)

The 10th amendment was *supposed* to save the people and the states from creeping governmental growth.

*The...leading [putative] object of the Constitution was to leave with the states all authorities which respected their own citizens only, and to transfer to the United States those which respected citizens of foreign or other states; **to make us several as to ourselves, but one as to all others...***

-- Thomas Jefferson; Bergh 15:448 (1823)

of the Constitution finally began to be capitalized upon, confirming the ridiculed foresight of the anti-federalists.

*A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires that **only its great outlines should be marked**, its important objects designated, and the minor ingredients which compose those objects, **be deduced** from the nature of the objects themselves. (And trust us to make the deductions... KWR)*

-- **McCulloch v. Maryland**, 17US315,404 (1819)

Had the Constitution been sold to the nation as only a 'great outline' of government's mere "nature" and that the "minor ingredients" of federal power could only be "deduced" by some future Supreme Court, **the Hamiltonian gang would have been laughed out of the ratification debates!** Until his death in 1835, Marshall greatly read "between the lines" to infer powers somehow implied, yet not stated.

*In civics courses we are taught that the American Constitution is one of limited and enumerated powers. **This is satisfactory only if we stay in the classroom.** Once we venture out and observe the actual working of government, we must confront and resolve a perplexing array of powers that are not expressly stated. They parade under assorted names: implied and inherent, incidental and inferred, aggregate, powers created by custom and acquiescence, and delicate "penumbras," "interstices," "emanation," and "glosses" that add strange and new qualities to the Constitution. **Whatever the name the result is identical: the conferral of a power that is neither expressly stated in the Constitution nor specifically granted by Congress.***

-- Louis Fisher; *Constitutional Conflicts between Congress and the President* (1985), p. 18

Jefferson, in 1823, observed (Bergh 15:448):

*Can any good be effected by taking from the states the moral rule of their citizens and subordinating it to the general authority, **or to one of their corporations**, which may justify forcing the meaning of words, **hunting after possible***

constructions, and hanging inference on inference, from heaven to earth, /like Jacob's ladder? Such an intention was impossible, and such a licentiousness of construction and inference, if exercised by both governments, ...would...break up the foundations of the Union. **Laws are made for men of ordinary understanding, and should therefore be construed by the ordinary rules of common sense. Their meaning is not to be sought for in metaphysical subtleties which may make anything mean everything or nothing, at pleasure... The states had (wrongly) supposed that by their Tenth Amendment they had secured themselves against constructive powers. They were not...yet...aware of the slipperiness of the eels of the law.**

The happy century between Marshall and FDR

From 1835 (the year of Marshall's death) until 1937, the most productive century of our nation, we had a temporary respite from grossly expanded "implied" powers. The Supreme Court allowed the constitutional system to behave in the Swiss-like manner touted by the 1788 federalists:

The state governments, in their separate powers and independent sovereignties, in their reserved powers, are just as much beyond the jurisdiction and control of the National Government as the National Government in its sovereignty is beyond the control and jurisdiction of the state governments.

...a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits, as any foreign nation...

-- *New York v. Miln*, 36 US 102(1837)

*...in the famous (1918) case of **Hammer v. Dagenhart** (247 US 251), a narrow majority of the Court amended the amendment by inserting the word "expressly" before the word "delegated," and on this basis ruled that an act of Congress which prohibited the transportation of child-made goods in interstate commerce was not a regulation of "commerce among the States" but an invasion of the reserved powers of the States.*

--E.S. Corwin; *The Constitution and What It Means Today*

In the 1935 ***Schechter Poultry Corp. v. U.S.*** the 10th Amendment was invoked in support of the proposition that Congress could not regulate local matters which affected interstate commerce only "indirectly." Chief Justice Hughes

properly observed that the maintenance of this rule was essential to the maintenance of the Federal system itself.

After FDR, no more 10th Amendment

However, by 1941, the Stone Court had utterly rejected a century of 10th Amendment observance and returned to Marshall's mischief. Upholding Roosevelt's Fair Labor Standards Act, Stone spoke for a *unanimous* Court:

*The power of Congress over interstate commerce is complete in itself, may be exercised to its utmost extent, **and acknowledges no limitations other than are** [expressly] **prescribed in the Constitution.** ... That power can neither be enlarged nor diminished by the exercise or non-exercise of state power... It is no objection to the assertion of the power to regulate interstate commerce that its exercise is attended by the same incidents which attend the exercise of the police power of the states... Our **conclusion is unaffected by the Tenth Amendment which... states but a truism** that all is retained which has not been [implicitly] surrendered.*

-- *U.S. v. Darby*, 312 US 100 (1941)

Commerce power is now used to federally mandate: who you can (or *must*, under "affirmative action") hire or rent to; that you cannot take immediate possession of a handgun or buy new "assault weapons" (whatever *those* are); that your children must be bussed across town to a gang-infested "school." Probably 80% of the federal regulations we find outrageous get their legal force from the commerce clause of 1:8:3.

Colorado, in admirable spirit, passed the first 10th Amendment Resolution--demanding that the feds stay within constitutional bounds and not infringe upon the states. (As Aesop would say, "*The mice voted to bell the cat.*" The states do not yet realize that the Constitution reduced them to "mice" and the federal "cat" cannot be forced to wear a bell.)

It is vital to understand how the Constitution was *really* designed regarding "powers-of vs. limitations-on" the Government: **Federal powers are implicitly construed, while their limitations must be explicit.**

That the men who framed the Constitution placed far less emphasis on the specific enumeration as a careful delimitation of the powers to be exercised by the federal government seems

likely on the evidence available. They seemed to interested primarily in the enumerations as a conveyance of power rather than as a limitation of power.

-- Frank Bourgin; *The Great Challenge* (1989), p. 40

Remember Jefferson's warning about the invertible "*all is reserved*" argument on page 3/7? Don't take it from just me-- Justice Thomas, in his courageous concurrence in ***United States v. Lopez***, 55 CCH S.Ct. Bull. (1995), also agreed:

[The Supreme Court's post-1930's] construction of the scope of congressional authority has the additional problem of coming close to turning the Tenth Amendment on its head. Our case law could be read to reserve to the United States all powers not expressly prohibited by the Constitution. (at B1770)

Let's discuss that 1995 ***Lopez*** ruling for a moment

In a 5-4 decision, the Supreme Court decided that the *Gun-Free School Zone Act of 1990* banning guns from 1,000 feet of schools was an invalid use of the Commerce Clause:

*To uphold the Government's contention that [the Act] is justified because firearms possession in a local school zone does indeed substantially affect interstate commerce **would require this Court to pile inference upon inference...to convert congressional Commerce Clause authority to a general police power of the sort held only by the States.** Admittedly, some of our prior cases have taken long steps down that road giving great deference to congressional action. ...The broad language of these opinions have suggested the possibility of additional expansion, **but we decline here to proceed further.** To do so would require us to conclude that the Constitution's enumeration of powers does not presuppose something not enumerated, cf. *Gibbons v. Ogden*, supra, at 195, and that there never will be a distinction between what is truly national and what is truly local. **This we are unwilling to do.*** (at 1746)

The majority, however, sadly failed to join Thomas, who called for an eventual return to the *original* understanding of the Commerce Clause. He was, tellingly, *alone* in such a view. Therefore, I do not see ***Lopez*** as a judicial turning point, but as a 5-4 aberration--the only case in a *generation* to strike down, based on the Tenth Amendment, congressional

commerce regulation. While we *might* see a few more **Lopez** flavored decisions, don't expect any full-blown reversal of the insidious commerce clause Congressional Perception Test.

All it will take to kill the hope of **Lopez** is for one of Rehnquist, O'Connor, Scalia or Kennedy to flip. Rehnquist is *particularly* quirky and unpredictable. In a later 5-4 decision, he wrote:

*...an owner's interest in property may be forfeited by reason of the [criminal] use to which the property is put **even though the owner did not know that it was put to such use.***

-- **Bennis v. Michigan**, 134 L.Ed. 2d 68 (1996)

In this Kafkaesque decision (joined even by Thomas!), a property owner's ignorance of illicit activity is *not* a defense against property seizure. (It's nice to live in such a "free" country...) Tina Bennis lost her 1960 1977 Pontiac because her husband used it, without her knowledge, to go looking for a prostitute. This ruling is nothing short of *obscene*.

Clearly, not much faith should be placed in Rehnquist. We could easily go back to **Garcia v. San Antonio Metropolitan Transit Authority** (1985) where the Tenth Amendment is violated only if the commerce regulation is actually "*destructive of state sovereignty or violates an express constitutional provision.*" (This sounds just like 1956 **Reid** treaty doctrine on page 5/14, doesn't it?) As I said, **Federal powers are implicitly construed, while their limitations must be explicit.**

Gun confiscation--how they'll try to do it

Congress just passed a virtual clone of the overturned 1990 act called the *Gun Free School Zone Act of 1996*. Even if this is likewise overturned (which I doubt), the feds will still get a few free years of enforcement. Since these 1,000' "school zones" overlap highways and main thoroughfares, innocent travellers will be caught. This devilishly clever act will kill open carry rights in the Western states and herd lawful pistol wearers into the concealed carry permit corral.

Once the feds fill up that corral and know the names and addresses of all those Americans with the *temerity* to actually bear arms, Congress will spring a national gun ban and confiscation act on us--constitutionally based on some UN "disar-

armament" or "anti-guntrafficking" convention. Your CCW permit will be neutralized overnight and the Supreme Court *will* uphold it. This has all been worked out long ago. **The final assault on peaceable gunowners has begun.**

Here's a *real* 10th Amendment

Had the Framers *truly* desired to limit the Federal Government, they would have written something like this: *"The Government shall have power only by explicit description without latitude of constructive, implied or elastic authority, and such expressly delineated power shall be subject to any implied limitation with regards to the inviolate and residual, unprohibited rights of the people and the states."*

Had the Framers wanted to *really* to nail shut the chance of Federal expansion they would have written: *"Further, to avoid the obvious conflict of interest, the Federal judiciary shall in no case decide if the Government has exceeded its expressly defined authority. Rather, the burden of proof of constitutionality shall be on the Government, to be decided only by a twelve-person jury trial in a county court in which the petitioner is domiciled. Such jury must unanimously find for the Government in order to uphold its contested authority in that instance. The Government shall have no right to appeal, but the petitioner may appeal once."*

Back to Colorado's 10th Amendment Resolution

Asserting their "imperial dignity" to "command obedience" since 1789, the feds quietly laughed in Colorado's face. **The feds, constitutionally speaking, have *few* constitutional bounds.** (On this note, Robin Williams once described the powerless nature of unarmed English Bobbies: *"Stop! Or, I'll say 'Stop!' again!"*) **What the states need, what they've *always* needed, is their own "gun."** The Constitution *purposely* stripped the states of *any real defense* against the Federal Government. (Jefferson believed that *"the true barriers of our liberty in the country are our state governments."*) It's taken us over 200 years to realize that the states were left only a "whistle." And the feds are deaf.

"Stop! Or, I'll say 'Stop!' again!" The states were to be our outer defense ring against federal tyranny. Since that's been circumvented, it's now up to the people themselves.

It's time for the funeral

Let's face it--the 10th Amendment is, for any practical purpose, dead. It only reserves to the states and the people *"powers not delegated to the United States."* Implicit federal powers were never repudiated. The states are merely the storehouse of unused future federal power.

It did not reserve *"powers not expressly delegated to the United States."* **In fact, the Congressional framers of the 10th specifically rejected such a version** in order to give the Supreme Court clear latitude to permit "elastic" powers under the *"necessary and proper"* clause.

[On 18 August 1789] South Carolina Anti-federalist Thomas Tudor Tucker moves that amendment reserving "powers not delegated" to the states be changed to read "powers not **expressly** delegated." Madison objects, arguing that "it was impossible to confine a Government to the exercise of express powers; there must necessarily be admitted powers by implication, unless the constitution descended to recount every minutia." **The motion is defeated.**

-- The Debate on the Constitution, Part One, p. 1101

It is significant, however, that the first three states, Massachusetts, South Carolina and New Hampshire, that proposed amendments to the Constitution at the time their conventions voted to ratify it, ...led off in each instance with a statement that all powers not "expressly delegated" or "expressly relinquished" or "expressly and particularly delegated" by "the said constitution" are "reserved to the several states." (The phrasing of these proposed amendments concerning delegated powers is in each instance based upon Article II of the Articles of Confederation. **The difference between that article...and the Tenth Amendment to the Constitution...is one measure of the difference between the Articles and the Constitution. The omission of "expressly," as well as of "sovereignty, freedom, and independence," means that the Tenth Amendment adds little except reassurance to the original Constitution.**)

-- The Federalist; edited by B.F. Wright, p. 15-6

This amendment was adopted to assuage fears, and it does not alter the distribution of powers between the national and state governments. It adds nothing to the Constitu-

*tion; ...the Court has returned to (Chief Justice) Marshall's view that the Tenth Amendment and the reserved powers of the states do not limit the national government in exercising the powers given to it by the Constitution. **Today It makes no constitutional difference whether or not an act of Congress touches or governs matters otherwise subject to state regulation.*** (p. 177)

--J.W. Peltason; *Understanding the Constitution*, 7th ed.

The true nature of the 10th reminds me of a joke. An insurance company wouldn't pay off a claim, so the policyholder sarcastically asks what good, then, is the policy. The adjuster indignantly replies, "*Why, peace of mind!*" **The** states now understand the "insurance value" of the 10th.

The only powers which were *really* left to the states and the people under the 10th Amendment *are those which cannot somehow be implied* for the Federal Government. If you learn anything from *Hologram of Liberty*, please learn this: **Federal powers are implicitly construed, while their limitations must be explicit.** The 10th was merely a bit marketing phraseology on how our system was *touted* to work, *not* how it was really *designed* to work.

I am sorry to burst that bubble, but I'd rather spare us years of fruitless effort based on 10th Amendment reliance. State resolutions are useful solely as political barometers. We just don't have *time* to luxuriate down dead-end paths. Forget the 10th Amendment. It was stillborn in 1789.

A 3rd party Renaissance

The two party system...is a triumph of the dialectic. It showed that two could be one and one could be two and had probably been fabricated by Hegel for the American market on a subcontract from General Dynamics.

--I.F. Stone

Over half of the eligible voters avoided the polls during the 1996 federal elections. So far, only a million voters "deselect" the DemoPublican party, with about 800,000 voting for the Libertarian Party (the largest 3rd party). Americans are increasingly voting for "None Of The Above." It would nice if the LP (800-682-1776) could attract their sup-

port, but it gets little publicity. (A presidential debate including the LP candidate would be fantastic.)

*The Democrats are the ones who will give you a loan. The Republicans are the ones who will guarantee you a loan. **The Libertarians are the ones who will leave you alone.***

--Cal Ludeman, Minnesota state representative

Always vote for a principle, though you vote alone, you may cherish the sweet reflection that your vote is never lost.

--John Quincy Adams

I don't see much hope in a victorious LP for three main reasons. First, 3rd party candidates are effectively barred from the ballots by complicated, expensive procedures and rigged rules. The time and money required to clear these hurdles is really an unaffordable "tax" on politically dissident activity. Also, there is no significant media access for 3rd parties (unless created by insider billionaires).

Secondly, no 3rd party will likely ever achieve the numbers required to take over the Presidency, much less the Congress. This is partly because of first reason, but also because of the moral and intellectual vacuum of the electorate. Over half of the country gets a government check, therefore the vested interest in the welfare state is a supreme obstacle to theft-free politics. Larcenous hearts aside, most people have neither the *mind* nor the *ambition* to be independent.

To become a libertarian takes at least a year of reading and discussion to overcome one's political brainwashing. No 25 million Americans will spend *that* kind of time and energy, much less give up their government check. The only successful 3rd party will be one which campaigns by "man-on-a-white-horse" emotional platitudes, not intellectual reasoning.

I'm *not* impressed with the American voters. For example, George Smathers beat out Claude Pepper by 67,000 votes in the 1950 Florida senatorial election. According to *TIME*, here's what Smathers said:

Are you aware that Claude Pepper is known all over Washington as a shameless extrovert? Not only that, but this man is reliably reported to practice nepotism with his sister-in-law, and he has a sister who was once a thespian in wicked New

York. Worst of all, it is an established fact that Mr. Pepper before his marriage habitually practiced celibacy.

During the 1948 senatorial democratic primary, my fellow Texans believed the outrageous lies about the virtuous Coke Stevenson uttered by that pathological liar, Lyndon Johnson. (LBJ understood Hitler's dictum that the *bigger* the lie the better, and it *will* be believed if repeated often enough.)

Finally, there's the philosophical hair-splitting. Even though the conservative Christians, Libertarians, Objectivists, and anarcho-capitalists are in roughly 75% agreement--*they stupidly feud over the other 25%*. **First achieve political supremacy, and then iron out the balance.** The left wing liberals have long known this:

Pas d'ennemis à la gauche.

"There are no enemies on the Left." -- old Socialist slogan

Peaceful nullification by common-law counties, juries, and state governors

As the [public] happiness...is the sole end of government, so the consent of the people is the only foundation for it.

--John Adams (1776)

America was neither founded, nor freed, by the well behaved.

-- an audience member on a Seattle TV talk show, discussing drug legalization

While we will witness a marked increase in peaceful nullification--such requires the feds to docilely acquiesce. Whatever the feds *can* squash, they *will*. They are currently hesitating to move on the several brave **common-law counties** (such as Nye in Nevada and Catron in New Mexico), but something will have to give eventually. These counties are truly pioneers in modern courage. I hope, however, that they have some help--they'll *need* it.

Jury nullification will work, *so long as there are jury trials*. The feds, of course, realize this--hence the modern proliferation of "civil forfeitures" *where there are no indictments 80% of the time* (much less trials). Finally, in the remaining jury trials, prosecutors and judges have become very shrewd and relentless in weeding out potential nullifying

jurors. Keep your wits about you if called to serve. You want to let them *believe* that you're a gullible, Yes, Sir! citizen.

How about some gubernatorial courage?

In my opinion, the only hope of successful nullification is for the **governors of several states** (preferably contiguous) to peacefully unite. (This has been brewing for some time; to wit, Arizona Governor Symington's 1994 conference with his western state colleagues.) *That* would give the feds some pause, especially if the state guard units were loyal to the governors. Such wouldn't be an actual secession from the Union, but *almost*. This would require incredible courage (and desperation) of the state governors and legislatures. If we can keep good people in state office, we might see this occurring within ten years.

Is it likely? Not really, but I sense that it *could* actually happen if oppression gets *really* bad. The western states, especially, are *not* happy. The most likely to finally say "*Enough!*" are Montana, Arizona, Wyoming, and Nevada--basically Rocky Mountain states. If such occurred, I could easily see some southern states joining the stand (though not Texas, unless it actually broke up into 5 separate states, as allowed by its annexation treaty). I'd rule out the West coast, the Plains states, and the Northeast.

There are already current examples of governors taking an increasingly courageous stand. Arizona's Fife Symington has been a fantastic thorn in the feds' hide. When Congress used the interstate commerce clause to outlaw air-conditioning freon (which, though heavier than air, somehow manages to claw its way 30 miles up to damage the ozone layer) and demanded that the nation spend billions converting its home and car A/C's, Gov. Symington said, "*Enough!*" and vowed that Arizona would simply manufacture its own freon. (I guess it's just a coincidence that the feds have recently charged him with election campaign funding irregularities. It's better to be the President and get away with renting out the Lincoln bedroom and Air Force One to big donators.)

Alabama Governor Fob James is backing Judge Roy Moore of the Etowah County Court in Gadsden who opens his court with prayer and displays a copy of the Ten Command-

ments on the wall behind him. The ACLU got another state judge to rule against Moore, and Governor James has pledged to use the National Guard and state troopers to defend Judge Moore's courtroom. Some may cry "separation of church and state!" but this issue in no way threatens or degrades the First Amendment (which prohibits merely the government's *establishment* of an official religion, as Great Britain did with the Church of England). Regardless of whether or not you are a Christian, Governor James deserves support for confronting modern judicial tyranny.

Nevada's governor house will be open in 1998, and a few candidates for limited government have already cast their hat into the ring. Since Nevadans are tired of the federal domination of their state, the 1998 election should be interesting.

Secession of the states

(The Union was] *the means of securing the safety, liberty, and welfare of the confederacy* [of 1781], **and not itself an end to which these should be sacrificed.**

-- John Randolph in 1814

This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it

-- Abraham Lincoln, 4 May 1861, 1st inaugural address

It very well may come to secession. Canada will likely lead the way, as she is much less cohesive a nation than America. Quebec came within a gnat's breath of seceding in 1995, and I expect it to do so within a few years, probably followed by B.C. Talk of secession shouldn't terrify you. Nations generally fizzle out after 200 years, and America is experiencing a vast polarization of politics to make disunion almost guaranteed.

We are no longer a workably homogeneous people. We are on the verge of a political revolution fought between the working class and the welfare class. Inner city gangs, formerly deadly enemies, are now making compacts. Informational entrepreneurs are abandoning the cities and fleeing to the countryside. Their tax base shrinking and their

welfare roles rising, big cities must bleed their states for taxes. Those states (N.Y. and California) are now losing productive people (taxpayers) to more free states (Arizona, Colorado and Idaho).

An *unprecedented* shift of demographics is now occurring. When the states realize that they can't stem the flow, they'll cry to Uncle Sam to equalize matters. Congress will comply--taxing us all so heavily that it really won't matter *where* we live. **A war will begin between those who work for a living and those who vote for it.** When the productive class realizes that all the political remedies have long been handed over to the Federal Government; that they are inexorably bound up as galley slaves to the socialist ship of State and its welfare *drones--that's* when the last resort of secession will be seriously contemplated.

While an unpleasant prospect, if America is *that* far gone, then better to brave a divisive secession and save *some* freedom, *somewhere*. Besides, secession is *lawful*.

Compact Theory must be explored as a legitimate constitutional doctrine for the very reason that James Madison supported it to the degree he did [in the Virginia Resolutions of 1798]. Madison, commonly known as the "Father of the Constitution," drafted the Virginia Plan, which became the body of the Constitution. He also proposed the amendments which became the Bill of Rights. In this sense he holds the position of ultimate arbitrator of constitutional questions. He clearly pointed out in the Virginia Resolutions that if a federal law violated the rights of a state without redress, then that state could nullify the law. If the federal government were to persist in its violating of that state's rights, then the logical continuation of the compact theory is that the state may eventually secede from (quit) the Union. It only makes sense that a governing entity such as a state may leave a larger governing body it has voluntarily joined..., if that association is harmful to it.

The 10th Amendment guarantees certain powers to the states. This amendment recognized that a state did not give up its sovereignty entirely Just by Joining the Union. Only if a state had given up all rights to self-determination would it be logical to argue that they must continue in a Union where that continuance is harmful to the state.

The best evidence of the legality of secession is that the states were asked to ratify the new Constitution in 1787 and the Bill of Rights in 1791. Ratification, defined as "to approve," allows the option of not approving. North Carolina and Rhode Island stayed out of the Union for several years after its creation. These two states felt that participation would be detrimental to their welfare. Since a state had the option of declining participation in the Union based on its fear of harm from such participation, it follows logically that if a state joined the Union and conditions later became harmful, **then a state must retain the right to end that participation and leave the Union.** Arguments to the contrary put one in the seemingly untenable position of supporting the idea that "an organization voluntarily joined cannot be voluntarily departed." Now, this may be the way things are done in the Mafia, but it should not be the rule in a democracy.

There is, in fact, constitutional doctrine to support secession. The Constitution does not discuss secession, so preventing it is not a delegated power of the federal government. Nor is secession prohibited, by the document, to the states. **It is, then, a power reserved to the states or to the people.** This reflects the wording of the "reserved powers clause" of the 10th Amendment... (at 73)

-- Chuck Shiver; *The Rape of the American Constitution*

State after state made it clear that they were joining the Union *voluntarily*, without relinquishing their sovereignty. For example, Virginia's ratification resolution specified "*that the powers granted under the Constitution being derived from the People... may be resumed by them whensoever the same shall be perverted to their injury or oppression.*" Madison had to admit, in *The Federalist* #39, that "*each State, in ratifying the Constitution, is considered as a sovereign body independent of all others, and only to be bound by its voluntary act.*"

Most damaging of all was the fact that while an early draft of the Constitution had specified that "*the Union shall be perpetual,*" **the phrase had been dropped prior to adoption of a final document.**

-- Daniel Lazare; *The Frozen Republic*, p. 104

The Federal Government's likely response

An opinion can be argued with; a conviction is best shot.

-- Lawrence of Arabia

Legalities aside, I am sure that the feds would pull in UN troops and go to civil war before permitting even a *peaceful* secession. Why UN troops? **Because American troops wouldn't reliably shoot fellow Americans.** Foreign troops are already here, training in the suppression of civil disturbances. On 6-28 August 1995, Operation *Cooperative Nugget--Partnership for Peace* at Fort Polk, Louisiana combined 4,000 soldiers of 14 Eastern European countries in a filmed exercise combating Americans. I've seen the official film. With a rock-n-roll music background, it shows them mock shooting *unarmed*, American flag T-shirted *civilians*, many of whom women and children! This is not the paranoid ranting of a "right-wing extremist"--I've *seen their film*.

Any uppity sheeple without firearms will be herded into "*civilian inmate labor programs on [military] installations*" according to a 29 August 1994 U.S. Army memorandum (see p. 164 of *Enemies: Foreign and Domestic, Part I* from **Militia** of Montana (406) 847-2735). They also sell the above video.

Want to see *foreign tanks and trucks on American soil*? Watch your local railroads for the long, flatbed carriers. (Pictures of them have been so widely distributed that steel enclosures have lately been built over the flatbed cars to hide the stuff. I *personally* saw about twenty of these "covered wagons" with telltale tank-tread marks outside Monroe, Washington in 1996.)

Want to see *black helicopters*? Go just about anywhere. I *used* to think that the black helicopter thing was mild hysteria, until I *personally* spoke with a director of security at a midsize airport. I asked him about them, expecting to be ridiculed. To my astonishment, he replied, **'*Sure, they land here all the time.*** *We've got a military refueling contract. Although we see green National Guard aircraft, black helicopter gunships refuel here also. Their pilots are real surly, say very little, and dress in black Nomex suits without insignia. The ships are always loaded with rockets. Once, I peeked into a helo cockpit. The fire-control switches were all set to "Arm." One day, we even had two*

black, unmarked F-16's land. *The pilots were driven away by car. They were returned after about two hours, and took off.*" When word of this became commonly known, black aircraft no longer refueled there, but 90 miles away.

The U.S. military routinely operates helicopter training missions in our cities (L.A., Dallas, Miami, and Detroit). Ask Pittsburgh residents about the 10PM *"urban deployment"* on 3 June 1996. James Pate of *Soldier of Fortune* magazine has given a consistently good reporting of these *"routine training"* missions (Oct. 96 issue). Much is also on the Net:

Due to media blackout, these urban assaults witnessed by thousands of people, are compartmentalized, hermetically sealed, in space and time such that for those outside the event compartment it "does not exist." Dictated by media content, in this case the lack of coverage and lampooning of reports, those outside the event compartment will then compartmentalize the eyewitness reports of those inside the event as "crazy."

The lesson here is clear: with media control, the government can commit large-scale actions that "do not exist" in the larger social mind even as thousands... witness them with their own eyes. (The perfect example of this is the explosion of TWA 800. Dozens of witnesses, including an airline captain, saw a missile streak--probably an errant test firing by the U.S. Navy. The Canadian military is said to have satellite photos. Oh, but no--the explosion was caused by a fuel tank spark. KWR) *Due to the media blackout, the larger society is not only ignorant of the events, but is also "immunized" from the truth of those events because eyewitness reports are compartmentalized as "crazy" and are dismissed without question-- Truth Control 101.*

"I didn't hear about X in the news, thus X must be a delusion." Such a state of affairs is the clear measure of a society primed and ready for the execution by the government of localized atrocities that will simply "not exist."

– Ian Goddard (<http://www.erols.com/igoddard>)

UN troops from Bulgaria wouldn't hesitate to use biological and chemical weapons on the "insurrectionists." No other nation would likely come to our aid, although some would sell us weapons. **We'd be on our own.** The world, generally doesn't like America, much less patriotic Americans.

America amongst a Socialist world. Remember, no significant contrasts. It'll be *some* fight.

Sans an act of God, the only way we'd survive is in a *When the Almond Tree Blossoms* scenario (Patriots control Ohio-class submarines which, by Trident nuclear missiles, hold off the Russian-backed U.S. Communist regime).

Those who make peaceful revolution impossible will make violent revolution inevitable.

-- John F. Kennedy

The second American civil war will be fought over that little strip of ground in your front yard between the sidewalk and the street.

-- L. Neil Smith; *Pallas*

Are we headed for a civil/race war?

*Multiethnic and multilingual nations can and do work. However, all the evidence clearly indicates **they work only if each group is allowed to conduct its own affairs without undue meddling by the central government.** In Switzerland, the federal government has absolute authority in matters of customs duties and regulations, currency, post and telecommunications, and railways.*

*The cantons (states) have absolute authority in matters concerning police protection, social services, housing and religion. In the categories of military affairs, unemployment, social insurance, and civil and criminal courts, the federal government has legislative authority, but implementation is left to the cantons. In the areas of taxation, road construction, health insurance, education and training, the federal government and the cantons share power. The overall concept is that the central government handles only matters that are best handled at the federal level, and that the cantons are sovereign in all other matters. **America would be well-advised to adopt this policy, the one our country** (allegedly) **was founded upon.** (at 137-8)*

-- Thomas W. Chittum; *Civil War Two* (1996)

The Swiss system is remarkably Jeffersonian and nearly identical to the "New Jersey Plan" offered by Paterson in the Convention of 1787. Such a system incorporated here *would*

work, however, to the bitter dissatisfaction of our current banking and lawyer oligarchy.

Watch for the real political power to continue to shift from our elected officials to the courts, and thus away from the American people.... These unelected judges use euphemisms like affirmative action to promote imperial tiering while they summarily strip citizens of their traditional and constitutional rights.

The recent invalidating of many provisions of California's proposition 187, the anti-illegal alien measure, is an illustration of how the federal judiciary blocked the democratically expressed will of the people when it threatened a key provision of the imperial agenda--the **deliberate flooding of America with illegal aliens** to break labor unions, lower wages, and transform America into a third-world country.

This steady usurpation of power by the judicial branch is the means by which the American branch of the international elites is transforming America into a third-world country manipulated by an oligarchy. All reforms interfering with the internationalist elitist agenda have been and will continue to be struck down as "unconstitutional" by the Supreme Court. **Unless the American people retake our judicial system, Civil War II is unavoidable.** (*ibid*, 180-1)

Clearly, the Congress and the courts are fomenting hatred between the races. While there will probably always be some tension between whites and blacks and hispanics and asians in America, raw *hatred* would *never* develop on its own. When the feds start to *really* lose their grip, they could foment a race war in order to justify martial law. Chittum (a Vietnam vet, and Rhodesian and Croatian mercenary), persuasively contends exactly this:

There are, in theory, several scenarios for the future of America. They are, in order of possibility of occurrence:

(1) A second Civil War, and the subsequent partitioning of America into several new ethnically-based nations.

(2) Completed imperial conversion, and the transformation of America into an undemocratic, multiethnic, poverty-stricken, third-world empire.

(3) The peaceful breakup of America into three or more ethnically-based nations.

(4) *America remaining intact by the will of the people, a possibility only if two conditions are met: (A) Reforms are instituted to turn over political power to the people and to permanently stop the massive, institutionalized corruption that now permeates every phase of our government. (B) Massive and voluntary assimilation of various tribal groups.*

Unfortunately, the order of desirability of these scenarios is exactly the opposite of their likelihood of occurrence. *To be technically correct, the prospect of a second civil war would be preferable to completed imperial conversion if there were some guarantee that the postwar states would be democratic, and the war itself would not be overly destructive. (Chittum is clearly analyzing, not advocating.)*

*To point out the near impossibility of the fourth (and most desirable) scenario, one only has to consider the reforms necessary to bring it about. **These reforms would necessarily be so extensive that they would require many amendments to our Constitution.** These reforms will not be put in place because they would require that the international oligarchy relinquish its power **and it is not about to do that peacefully.** (ibid, 152)*

Pretty sobering stuff. Chittum thinks we have until about the year 2020 before America finally cracks at her ethnic seams. He has broken down Civil War II into four phases, the second of which we are now in.

Phase 1 -- The Foundational Phase

Beginning with the Cold War and ending with the Berlin Wall in 1989, the strategy was to break the power of the working class and to so fortify the domination of the international establishment that their grip is permanent. This phase was characterized by tribalization, the creeping loss of democracy, gradually falling wages, slow physical decay of the cities, growing legal and illegal immigration, birth of racial associations in the police, creation of a vast international infrastructure, gun control, appearance of massive street gangs, and the co-option of the mass media.

Phase 2 -- The Terrorist Phase

Chittum believes that this current phase will last another 5-20 years. The key to its end is the coming chaos of Mexico and the demographic takeover of the American South-

west. The Terrorist Phase will be known for its markedly increased tribal tension and riots.

Phase 3 -- The Guerrilla Warfare Phase

In this phase (lasting 10-20 years) larger groups of heavily-armed and full-time urban guerrillas like the IRA and Viet Cong will be common. The pols will rely upon KGB-style suppression. Gangs will become primarily political in their goals and shift into a paramilitary mode--controlling parts of entire cities. Mutinies in the military will break out, and bases will become siege-oriented. Massive ethnic flight. The capital will be moved from Washington, D.C. to a safer area. The Bill of Rights will be suspended by military rule. Once the central authority collapses, the final phase will begin.

Phase 4 -- All-Out, Continuous Warfare

Preceding by a wave of urban rioting lasting an entire summer. (The 1992 L.A. riots were a dress rehearsal.) Militias and gangs will outnumber the police and military. States will secede from the Union. A war with Mexico. Large scale food shortages. Global depression. Massive ethnic cleansing. Possible UN troop occupation. Concentration and death camps. New intra-America ethnic borders and a stabilization of the military situation--then, they will fight each other.

Our first Civil War had such preceding phases characterized by slave revolts, angry talk of secession, guerrilla warfare in Kansas, terrorist actions like John Brown's raid on Harpers Ferry, assaults on the abolitionists, political realignments, and a general hardening of opinion. Watch for more events that demonstrate that our current pre-military phases resemble the pre-military phases of Civil War I. And watch for increasing mentions of this resemblance in the media. (ibid, 98)

Gee, what's the good news?

In summary, I see *very little chance for apolitical solution*. Therefore, we need to effect a "paradigm shift" as today's constitutional system offers no real chance of freedom. But before I get into my ideas for this paradigm shift, let me throw out two exciting political possibilities.

ANSWERS, PLEASE!

I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them.

-- Thomas Jefferson

So, the Founding Lawyers were duplicitous and cunning, their Constitution was shrewdest, quietest revolution in history, Liberty has been all but painted into a tight corner, and we've little future for freedom. Whenever people are confronted with a tyranny there are but five ways to react:

Acceptance and Resignation

Give up and take it.

Electing better officials

Locally this can have dramatic effects, however, Washington is too far away for sufficient supervision and pressure.

Avoidance and Evasion

Be a bright, quick, little fish and try to swim around the regulatory net. This will work only for a vigorous few.

Sit-down strike

Until martial law is declared, a general strike would probably make our rulers back down somewhat.

Direct confrontation

Usually, an oppressed people will be forced to directly confront the government. This can take many forms: writing letters, referendums, constitutional amendments, political transformations, protests in the streets, and armed rebellion.

I feel that America is just outside the door of an armed rebellion and I wish to avoid that, if possible. **A drastic, sweeping political transformation is the only avenue left to us.** The feds have all but bound us hand and foot, and have further rigged an already rigged game. I can see only two possible peaceful solutions, and one fascinating wildcard.

2 POSSIBLE POLITICAL SOLUTIONS

Earlier proposed constitutional amendment

Since the chances are nil that we'll ever have any righteous *new* amendments proposed by Congress (and a Con-Con is just too dangerous), what about one of the *previously proposed* amendments? Passed by Congress but not ratified by the states, there are six of them:

- Reapportionment (1789)
- Titles of Nobility (1810)
- Slavery (1861)
- Child labor (1924)
- Equal rights (1972)
- D.C. statehood (1978)

Of the six, only two have any practical relevance to limiting government. The reapportionment amendment, if ratified today, would require at least one House representative per 50,000 people--meaning over 5,000 reps (instead of 435). While the people *would* have more influence over their Rep, a House with over 5,000 members is obviously infeasible. The proposed amendment of 1810, however, is intriguing.

Forcing the "missing 13th Amendment" of 1810

If any citizen of the United States [of America] shall accept, claim, receive, or retain any title of nobility or honor, or shall without consent of Congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States [of America], and shall be incapable of holding any office of trust or profit under them (In federal capacity), or either of them [in state capacity].

The 1800's definition of "*honor*" meant anyone "*obtaining or having an advantage or privilege over another.*" An example is that only lawyers can be judges. Other modern examples are "special interests" and "immunities."

The significance of this amendment would be to strip lawyers and judges of their "*Esquire*" and "*Your Honor*" nobility status, and transform them into foreigners denied office! It would also, by barring their personal immunities, compel officials to be subject to the same laws as the rest of us. Proposed in 1810, it apparently was duly ratified by three-fourths of the states (existing in 1810) by 1819, **yet was kidnapped from the post-1867 public record!**

After much wrangling by researcher David Dodge (*do* POB 985, Taos, N.M., 87571), U.S. Senator Mitchell of Maine admitted that 12 of the necessary 13 states (at the time of its 1810 proposal) had indeed ratified the 13th, but Virginia didn't send to Congress a "*certificate of ratification.*" Never mind that the other 12 states did not provide this document *either* (which is nowhere required by the Constitution). Although Virginia's 1819 ratification record has been lost, she *did* publish the 13th as ratified in their Civil Code of 12 March 1819 which is *prima facie* proof of ratification.

This vital Amendment, published as ratified by *no less than 30 editions* of state and territorial civil codes from 1819 to 1867, is *currently unrecognized for lack of a single sheet of paper.* (The *AntiShyster*, POB 540786, Dallas, Texas, 75354-0786, deserves great credit for bringing Dodge's discovery to our attention. To subscribe, call 800-477-5508.)

Unless otherwise specified (as in the 18th, 20th, 21st, and 22nd amendments), *a proposed amendment doesn't expire* and has an unlimited time to circulate. For example, the 27th Amendment, prohibiting Congressmen from increasing their salaries until after an election, was ratified on 7 May 1992 by the necessary 38th state. It was proposed in 1789 as one of the twelve in the Bill of Rights. Six states ratified between 1789-91, one in 1873, one in 1978, and 31 between 1983-92. Gregory D. Watson, a UT student, is responsible for reviving the amendment and helping to push it through, even though "scholars" declared it a "*dead letter.*"

Likewise, the 13th is *not* a dead issue and could be ratified *with 26 more states*, although it seems much easier to demand recognition of Virginia's 1819 ratification.

Exposing the sham 16th Amendment

Who controls the past controls the future. Who controls the present controls the past.

-- George Orwell; 1984

The second possible political remedy is something that could work *if* the country were quickly told of it.

To ratify the Income Tax Amendment of 1913 required the approval of three-fourths (36) of the 48 states. The states must pass any proposed amendment *exactly* as written by Congress *without any changes whatsoever*. (Not even a misplaced comma can be tolerated, for it might significantly change the law's intended meaning.) In *The Law That Never Was*, authors Beckman and Benson traveled to the capitals of all 48 states and got *certified* copies of the votings.

Of the 36 states which allegedly passed the 16th, at least 32 committed grievous departures from the mandatory strict procedure. **Meaning, 32 states *fudged* to get the 16th Amendment "ratified."** Most outrageously, Kentucky voted 22 to 9 *against* the 16th, **but was fraudulently recorded as one of the *ratifying* states.**

The certified record of all this is irrefutable, which is why both the Congress and the Supreme Court (*every* member having received a copy of *The Law That Never Was*) has ignored this bombshell. Congress says it's *ajudicial* matter. The courts say it's a *political* matter. They know that to recognize the 16th's record would make it null and void overnight, and thus kill the modern income tax.

The matter is now somewhat stagnant, but revivable. **If millions of Americans *suddenly* learned of this, we could at last force the matter.** Given the universal unpopularity of the income tax, this issue would be a guaranteed home run. I recently consulted on a very good screenplay for a feature film which would dramatically educate audiences on the bogus 16th. Nowordyetonits shooting, but stay tuned.

CIRCUMVENTING THE "RULES"

The people made the Constitution, and they can unmake it.

-- Chief Justice John Marshall

*This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, **or their revolutionary right to dismember or overthrow it.***

-- Abraham Lincoln, 4 May 1861, 1st inaugural address

Since I see small chance of the above political solutions being effected, we might have to resort to an "end run" around the amending procedure of Article V. Interestingly, another author (diametrically opposed to my libertarian views) has simultaneously reached a similar conclusion.

In *The Frozen Republic*, Daniel Lazare outlined a scenario in which a year 2020 California wishes to leave the Union because of its constitutionally disproportionate representation by population in the Senate. Since the Senate was *designed* to be disproportionate according to population, and since no state may be deprived of its equal weight without its consent, and since the smaller states would never allow such deprivation, Article V's procedure cannot work.

The Federal Government is left with three unpalatable choices: **●** Allow California's departure, and thus the subsequent exodus of other states, which would destroy the U.S. nation-state; **●** Militarily occupy California, which *might* succeed, but would be a PR disaster; or **●** Reform the Senate to mirror the democratic representation of the House, which would be unlikely in the face of small state resistance.

Since California couldn't be let go, reined in, or satisfied, Lazare offered a fourth alternative along the lines of how the 1787 federalists circumvented Article II of the Articles of Confederation. Madison outlined it in *The Federalist* #40:

In one particular it is admitted that the convention [of 1787] have departed from the tenor of their commission [by the Confederate Congress]. Instead of reporting a plan requiring the confirmation of all the States, they have reported a plan which is to be confirmed and may be carried into effect by

nine States only. It is worthy of remark that **this objection, though the most plausible**, has been the least urged in the publications which have swarmed against the convention. (Madison greatly exaggerates here. KWR) The (alleged) forbearance can only have proceeded from an irresistible conviction of the absurdity of subjecting the fate of twelve States to the perverseness or corruption of a thirteenth (meaning Rhode Island); from the example of inflexible opposition given by a majority of one sixtieth of the people of America to a measure approved and called for by the voice of twelve States, comprising fifty-nine sixtieths of the people--an example still fresh in the memory and indignation of every citizen who has felt for the wounded honor and prosperity of his country. As this objection, therefore, has been in a manner (allegedly) waived by those who have criticized the powers of the convention, **I dismiss it without further observation.**

Because Article II was an "absurdity" and allegedly undefended by the anti-federalists, Madison dismissed it with one paragraph. Lazare suggests that the House, boasting of some putative mandate from the people, could similarly sweep away the Constitution's Article V--or anything else:

*Freed of its eighteenth-century constraints, the [House-led] government could reach into every last corner of society, leaving no stone unturned. It could reform federalism, **cut back on states' rights** (what states' rights??), or, for that matter, **break them up into departements the way the Jacobins broke up the old French provinces, which was Hamilton's idea in the 1790's.*** (at 296)

*...By abolishing separation of powers and checks and balances, the House would liberate itself from judicial review. **Even if the Bill of Rights were to remain in place, citizens would have no assurance that the House would abide by its provisions other than its own pledge to do so.** Yet what the House promises one day, it can unpromise the next; it could thus abolish free speech and a free press at a stroke, with little more than a yelp of protest from the courts. **The only thing that could stop them would be the people themselves, who would recognize that real majority rule is impossible outside of a framework of free and vigorous criticism and debate.*** (Surre! KWR) (at 298-9)

Here's my idea

If Lazare can use *The Federalist* #40 for his purposes, then we can use it for *ours*. Since I'm not the closet fascist he is, I wouldn't dare suggest that the House trashcan the Bill of Rights. (Not even *I* am *that* messianic...)

Rather, our "end run" would be that the states may themselves float their own proposed constitutional amendments, bypassing Congress. The Nevada legislature could, for example, pass a proposed amendment and offer it to the other 49 states. If 37 more states signed on, the proposal would be considered ratified by the requisite 3/4ths of the states. Borrowing from Madison's *The Federalist* #40, it's an "*absurdity*" that the popular mandate is subjected to the "*perverseness and corruption*" of two-thirds of Congress by virtue of Article V. Because 357 members of Congress don't utter a "*Simon says*" we're going to allow this nation to take a dirt nap? Therefore, I shall "*dismiss it without further observation.*" Moral: two-edged swords are a bitch.

By the way--*thanks*, Dan. Madison's self-serving "argument" was just the particular ingredient I was looking for. If his cheesy rationale worked for the federalists, then it can serve the Freedom Movement (which you undoubtedly despise and fear). Again, *gracias*. The next time I'm in Manhattan, the tofu quiche and Chardonnay are on me.

The Liberty Amendment

Though incomplete for our *long-term* needs, it's a very good amendment for starters. This was proposed in the early 1960's. Its four sections would basically privatize much of the Federal Government and prohibit it from interfering/competing with private enterprise. Even though Congress naturally rejected it, 9 states have already independently passed it:

Section 1: *The Government of the United States shall not engage in any business, professional, commercial, financial or industrial enterprise except as specified in the Constitution.*

Section 2: *The constitution or laws of any State, or the laws of the United States shall not be subject to the terms of any foreign or domestic agreement which would abrogate this amendment.*

Section 3: *The activities of the United States Government which violate the intent and purposes of this amendment shall, within a period of three years from the date of the ratification of this amendment, be liquidated, and the properties and facilities affected shall be sold.*

Section 4: *Three years after the ratification of this amendment **the sixteenth article of amendments to the Constitution of the United States shall stand repealed** and thereafter Congress shall not levy taxes on personal income, estates, and/or gifts.*

Americans for Constitutional Action are reviving the Liberty Amendment. Write them at 3431 W. Thunderbird Rd. #144, Phoenix, Arizona 85023, or call 800-333-5771.

SAVING US FROM "DEMOCRACY"

*A Democracy cannot exist as a permanent form of government. It can exist only until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising the most benefits from the public treasury, with the result that a Democracy always collapses over loose fiscal policy, **always followed by a dictatorship.***

-- Fraser Tyler

Democracy must be something more than two wolves and a sheep voting on what to have for dinner.

-- James Bovard; *Lost Rights*, p. 333

I've no problem with democracy, when taken in moderation. It's easy to fix: Suffrage is suspended while accepting a government check. (The only exception I'd make is in payments to disabled veterans.) **There is no right to receive public funds and simultaneously vote on their dispensing.** We cannot tolerate a nonproductive class which votes for a living. Here are some other ideas from a real master:

--so let's try some other "poll taxes" to insure a responsible electorate:

a) Mark Twain's "*The Curious Republic of Gondor*"--if you have not read it, do so. (KWR note: In this 1875 story everybody is guaranteed their one vote, however, citizens can enlarge their suffrage through academic accomplishment and

accretions to net worth. At last, property, character, and intellect is able to wield a political influence. Social respect is measured by the number of votes an individual could cast.)

b) A state where anyone can buy for cash (or lay-away installment plan) one or more franchises, and this is the government's sole source of income other than services sold competitively and non-monopolistically....

c) A state that required a bare minimum of intelligence and education--e.g., step into the polling booth and find that the computer has generated a new quadratic equation just for you. Solve it, the computer unlocks the voting machine, you vote. But get a wrong answer and the voting machine fails to unlock, a loud bell sounds, a red light goes on over that booth--and you slink out, face red, you having proved yourself too stupid and/or ignorant to take part in the decisions of the grownups. Better luck next election! No lower age limit in this system--smart 12-yr-old girls vote every election while some of their mothers--and fathers--decline to be humiliated twice.

There are endless variations on this one. Here are two: Improving the Breed--No red light, no bell...but the booth opens automatically--empty. Revenue--You don't risk your life, just some gelt. It costs you a ¼ oz. troy of gold in local currency to enter the booth. Solve your quadratic and vote, and you get your money back. Flunk--and the state keeps it. With this one I guarantee that no one would vote who was not interested and would be most unlikely to vote if unsure of his ability to get that hundred bucks back....

d) ***I don't insist on any particular method of achieving a responsible electorate; I just think that we need to tighten up the present warm-body criterion before it destroys us.***

-- Robert A Heinlein; *Give Me Liberty* (1980); sourced from *The Survival of Freedom*, edited by Jerry Pournelle

Our warm-body/fog-a-mirror democracy so successfully clamors for federal goodies that Congressmen no longer bother with even the barest of constitutional requirements:

On July 16 [1996], the Senate Committee on Governmental affairs held hearings considering a bill to require Congress to specify for each new law which section of the Constitution gives [them] authority to pass the law. Sen. Glenn [D-OH] spoke out strongly against the this requirement stating, "Why, if we had to do that we could not pass most of the laws

we enact around here." He stated that the Clean Water Act, Endangered Species Act, the Americans With Disabilities Act and others could never have been passed if Congress had to find authority for them in the Constitution. He declared, ***"Americans just want us to solve America's problems of health and safety--and not be concerned if they can be constitutionally justified."***

In other words, Glenn admits to routinely disregarding the Constitution, and breaking his oath of office...

-- Patriot Information Mailing List, piml@connecti.com

This is an extraordinary admission. Glenn confirmed that America has now totally sunk to "*bread and circuses*."

FREEDOM TECHNOLOGY

Necessity is the mother of invention, **and what we desperately need right now are defendable, parallel systems of economics to gradually ease into.** (Politics will come later. Terra Libra, the information-based country, is one first step.) As that occurs, traditional governments will helplessly watch their power base wither away. Heh!

Recall the Federal Reserve coming on line first as a parallel banking system. It gradually overcame the state banks because the Fed was a little cheaper and more convenient to use. The state banks gradually withered away. The wholly artificial, nationless European Currency Unit (ECU) is doing the same thing to the English Pound, etc.

Why not learn from the banksters? Why not create and institute our own economic system? There is no reason to submit eternally to worthless Insider paper, and there is no reason to revert to the inefficient barter system. **With computerized communications, we can create a freedom-oriented, privacy-protected, gold-backed digital money!**

David Chaum has *already* done the technological legwork of *anonymous* transactions in his **DigiCash** system (<http://www.cligicash.com>). Liberty-minded folks worldwide can discreetly trade and stop using the national "currencies."

In time, federal economic leverage will wither away in the same inexorable fashion it *arrived--dollar by dollar*.

When people learn to merely *enjoy* assets lawfully owned by their untaxable, offshore holding companies, then governments will be deprived of taxable property. That, combined with governments' loss of economic leverage through their national currency, would mean tyranny's end. ***We just walk away from their game--leaving its umpires and scorekeepers without players.***

With alternative systems in place at all levels, we can make oppressive government *powerless and irrelevant!* **Becoming irrelevant is the biggest fear of government.** (Remember the howl Clinton made when Limbaugh called his Presidency "*irrelevant*" following the Republican sweep of the 1994 Congressional elections?) Governments panic at the prospect of "their" citizens no longer needing public services.

FREEDOM GOVERNMENT

It can never be too often repeated that the time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united. From the conclusion of this war we shall be going downhill. It will not then be necessary to resort every moment to the people for support. They will be forgotten, therefore, and their rights disregarded. They will forget themselves, but in the sole facility of making money, and will never think of uniting to effect a due respect for their rights. The shackles, therefore, which shall not be knocked off at the conclusion of this war will remain on us long, will be made heavier and heavier, till our rights shall revive or expire in a convulsion.

—Thomas Jefferson; *Notes on the State of Virginia* (1782)

We are approaching a miraculous (and *narrow*) window of opportunity. The Freedom Movement is possibly gaining the quantity and *quality* of Americans necessary to slough off federal tyranny. This is will still be difficult. **It will probably go one of two ways:** We will either discover an extraordinarily clever technological avenue, or be forced to defend ourselves with arms. (If arms *must* be resorted to,

then I pray that it will be the short, intense, victorious scenario described in John Ross's *Unintended Consequences*.)

Defense, Congress, and the courts

I'd rather see the federal government funded solely by users' fees and/or a uniform head tax. Here are some ideas from my *Good-Bye April 15th!* to ponder over:

DEFENSE costs an average of \$1,200 per person-year. Why not bill people, rich and poor, directly for that amount each year? Foreign tourists would pay about \$3.50 per day; merely add this cost to their visa fees. It costs the same to protect a millionaire from foreign attack as it does a "bum." If movies cost everyone a uniform \$7.00, then why shouldn't our national defense be a uniform \$1,200 as well? "*Oh, but the rich have more to gain from defense because they have more to lose!*" Yes, but defense isn't compensatory insurance, it's prevention of ruin, like vitamins and exercise. The rich shouldn't have to *pay* more just because they benefit more from something that costs everybody else the same. That's like charging Porsches more at the car wash than Pintos.

CONGRESS could be funded by a national lottery. Each Congressman would get \$1,000,000 per session. This would cover both his salary and expenses. *Every word* of law he votes for costs him \$10 and what he *doesn't* spend, he gets to *keep*. Congress would therefore pass **fewer and simpler laws; a real bonanza for us!** Wouldn't you rather pay your Congressman ten times as much and get a hundred times *less* law? If **Congress can bribe farmers not to raise food, then we should bribe Congress not to make law!**

CIVIL COURTS could be funded by making the loser of a civil suit pay for all court costs *plus* the opposition's attorney's fees, and have the court system charge a bonding premium on any legally enforceable contract. It would be like an insurance policy: payment of, say, 0.5% of the contract's value would guarantee the court's enforcement of terms should the other guy weasel. Also, private arbitration firms (e.g., the American Arbitration Association) would naturally be

allowed to compete with government courts, resulting in lower prices/improved service for the litigant "customers."

POLICE AND CRIMINAL COURTS would be voluntarily funded by insurance premiums similar to protection against uninsured motorists or so-called "Acts of God." If *you* desire the protection of the police and judicial system, then *you* pay for it. If you don't want this protection and are willing to chance it (as many people do by not having fire or health insurance), then you neither pay for nor receive police protection and court justice. Convicts would be obliged to make monetary reparation plus punitive fines. Thus, the "*customers*" would be the ones who *pay* for the criminal justice system. **You use it--you pay for it.** What could be more fair? The proliferation of private security firms is clear evidence of the public's desire for more effective police.

Perhaps some of this just isn't feasible, but let's at least encourage some new, interesting ideas out there. Here's another idea, inspired by Robert Heinlein's *The Moon Is A Harsh Mistress* (the fascinating novel about a futuristic lunar penal colony successfully revolting from its Earthly masters).

How about a choice amongst 500 Representatives?

Today's congressional elections are total Win/Lose propositions. Two candidates face off; one wins and the other loses. If the winner gets 501 votes and the loser 499, it means that 499 diligent voters got absolutely nothing for their efforts, merely because two votes went the other way. And the winning Rep claims he was voted in by "the people." No, by only 50.1% of "the people." (Hardly a mandate.) In any election, up to **49.9%** of the voters have no say in government; **up to nearly half are *not* represented.** It's unfair, frustrating and wasteful. Little wonder that only half of those eligible to vote have registered, and only half of *those* actually vote! **Only 25% of the eligible voters vote in national elections.** How about this instead:

O A congressional candidate would first require the petition signatures (sigs) of at least 200,000 registered voters. These 200,000 sigs would: A) assure that Rep a seat in Congress, and B) allow the Rep entrance in the general

election to increase his constituency (and thus his voting weight). The 100 million eligible voters today means a maximum potential of 500 Reps. Let's say that 350 Reps received at least the required 200,000 sigs.

fl A general election is then held. Understand that the 350 Reps have already made it to Congress with their 200,000+ sigs; the election is held only to give those Reps a chance to *increase* their overall voter support. The voters which have petitioned for a particular Rep *have already voted*. This election is only for those voters who have not yet endorsed any particular Rep.

O The results of the general election are published. Of those 350 Reps, let's say their voting support ranges from the minimum 200,000 to a high of 3,000,000. That means that the top Rep has fifteen times more voting weight in Congress than the Rep with only 200,000 sigs.

O Once Reps are in office, their respective voters have the option to switch loyalties on a monthly basis. **That way, no Rep could con the voters just to get elected.** If the Rep with the initial 3,000,000 votes begins to ignore the wishes of his voters, they can "change horses," and drain that Rep's voting influence. **An incumbent's power is *exactly* proportional to his/her approval. Approval *grows*, power *grows*. Approval *wanes*, power *wanes*.** A Rep whose intraterm support goes *below* the 200,000 minimum for two consecutive months is ousted. **A Rep must have the mandate of at least 200,000 voters to achieve and hold office.** See how equitable this would be?

Every cohesive group of 200,000 or more could have their own Rep in Congress. Voters in different states with common views could enjoy common *national* representation. Montana and Florida Libertarians could have their own Rep. New York and New Jersey Socialists could have theirs. The environmentalists theirs. The pro-lifers theirs. Minority viewpoints would finally have a palpable voice. **And the voting weight of each Rep would exactly mirror his numerical voter support.** Reps with more voter support would justifiably have a proportionately

stronger influence in Congress. Elections under this scenario wouldn't be Winner/Loser affairs with as little as 50.1% of the voters dictating Congress, and the other 49.9% griping about it. That sort of thing has split our country in two. These elections would be *Winner I Winner*. You'd no longer have to limit your choice of Rep to just a mere handful in the primaries--you could choose from up to 500! *Now that's* freedom of choice. Now that's *representation*!

And here's the kicker. **Whatever program the voters demand through their Reps, it's only *those* voters who benefit from and *pay* for that program.** If 40,000,000 voters demand, via their 140 Reps, a Welfare State, then it's *their* Welfare State and theirs *alone*. The rest of the country neither uses it nor pays for it. This measure will stop people from assuaging their private consciences at the public's expense. No longer can "A" spend "B's" money on "A" and "C." Let the *Socialists* live with Socialism. (If Socialism was such a great deal, the Swedes wouldn't be flocking *here*.)

For example, take capital punishment. Those against it would be the ones who pay for a murderer's life imprisonment. And, they would fund an insurance premium on each lifer to compensate any future victims in case the murderer escapes. **The whole point is to make voters *personally responsible* for their own actions,** and not distribute the consequences of their poor actions across the country. Let's put the collectivists out of *our* misery!

Free State Wyoming (www.freestatewyoming.org)

I founded the FSW in 2004 as a viable Western alternative to the Free State Project of N.H. As of 2008 we have hundreds of pledged relocators, with dozens already having moved to Wyoming. Our forum has nearly 1,000 members and 50,000 posts. FSWers are making themselves heard throughout Wyoming! All who stand for political liberty, free trade, and voluntary cooperation are welcome.

Many, many years from now...

We could even, via constitutional amendment, divest Washington, D.C. of its centralized power by physically bringing home Congressmen to their states' capitals. They would thereafter be linked together by satellite for voting. This

would diffuse the lobbyists' leverage and properly hold Congressmen more "hostage" to the local will of their reps. Washington would become a bland museum capital. Heh!

Political power could be decentralized even further. For example, it would be possible to offer multiple CyberNations within a common geographical area. One would simply *contract* with the government of one's choice. **Remember, the only legitimate functions of government are these:** the protection of life/liberty/property from violence within and without; and the compulsory judgment of alleged crimes, including punishment of convicted criminals with mandatory restitution to the victim.

CyberNations would compete with each other more effectively than mere 3-D governments. One could emigrate by a keystroke, instead of laboriously packing up all one's possessions and moving across oceans. Your government agents would be responsible to you, and you would be responsible to others for the actions of your agents. Much of what we now think of as governmental spheres would properly dissolve to more and more private spheres. Voluntary choice amongst competing governments would instill responsibility, which would instill honesty, which would instill honor, which would instill contentment and peace.

Such a world is actually possible, and perhaps on its way. Do some valuable fantasy reading to help visualize our future. I recommend these books, my favorites highlighted:

Disaster preparation

Lucifer's Hammer, Niven and Pournelle

Farnham's Freehold, Robert Heinlein

Pulling Through, Dean Ing

Resistance movements with at least a somewhat happy ending

Atlas Shrugged, Ayn Rand

The Moon Is A Harsh Mistress, Robert A. Heinlein

Weapons Shops of Isher, A.E. van Vogt

Unintended Consequences, John Ross

Mirror Maze, James P. Hogan

The Gallatin Convergence, L. Neil Smith

Pallas, L. Neil Smith

When The Almond Tree Blossoms, David Aikman

The Ashes novels by William W. Johnstone
The Survival of Freedom, Jerry Pournelle
Kings Of The High Frontier, V. Koman (pulpless.com)
Paul Revere's Ride, D.H. Fischer
John Adams and the American Revolution, Bowen
The Battle of Athens, Tennessee, Byrum

Libertarian utopias

Molon Labe!, Boston T. Party
Alongside Night, Perlman
The Probability Broach, L. Neil Smith
Voyage of Yesteryear, James P. Hogan

Resistance movements with a less-than-happy ending

Defiance (also titled *Vandenberg*), Oliver Lange
Animal Farm, George Orwell
Amerika, Pouns
Let Us Prey, Bill Branon
The South Was Right!, Kennedy
Resistance, Israel Gutman
The Whiskey Rebellion, Thomas Slaughter
Story of Secret State, Jan Karski

Dystopias

This Perfect Day, Ira Levin
1984, George Orwell
Braue New World, Aldous Huxley
Anthem, Ayn Rand
Man In A High Castle, Philip K. Dick
Oath of Fealty, Niven and Pournelle
The Trial, Franz Kafka

While most of these are "near-future" sci-fi novels, we are living in a sci-f world which is changing hourly. **Keep your principles honest and well grounded--keep your learning fluid and your imagination free.**

Like the hunter in the absolute outside of the countryside, the philosopher is the alert man in the absolute inside of ideas, which are also an unconquerable and dangerous jungle.

-- Jose Ortega y Gasset; *Meditations on Hunting*

As Edmund Burke noted, for a country to be loved, it must first be lovely. Let's design, once again, a lovely America.

+ 11

AND NOW, BACK TO *REALITY...*

We have castrated society through fear and intimidation. Its manhood exists only in combination with a feminine...appearance...being so neutered, the populace has become docile and easily ruled...their thoughts...only with present toil and the next meal... You have become addicted to our medicine through which we have become your absolute masters.

-- Harold W. Rosenthal, former administrative assistant to N.Y. Senator Jacob Javits

*It is quite possible that the man who desires freedom and the right of order must be prepared to sacrifice certain security. A slave, in Aristotle's definition, is a being who allows others to make his choices for him. It is quite possible for a man, in ancient or modern times, to be materially prosperous, and freed from the necessity of choice [and responsibility], and yet servile. **It is also possible that he may suffer no outrageous oppression.** But he must always lack one thing, this servile man, and that is true manhood, the dignity of man. **He remains a child; he never comes into man's birthright, which is the pleasure and the pain of making one's own choices.***

-- Russel Kirk; *Conditions of Freedom* (1956); sourced from *The Survival of Freedom*, edited by Jerry Poulmelle

Liberty means responsibility. That is why most men dread it.

-- **George Bernard Shaw**

We've forgotten that long ago. **Yeah, us.** Self-neutered through decades of gray surrenders, we're now fat and domesticated, caring only for our petty comforts. Oh, we'll vote if we're automatically registered by virtue of having a slave "driver's license." We'll protest to our Congressman as long as somebody provides us a self-addressed, stamped card. I am disgusted with our excruciatingly vapid July 4th parades and empty "symbol patriotism." **Let's all move to Canada and be done with this American charade!**

*Our peril was not the Bomb, or Communism, or the population explosion, but the state to which our life-style had progressed. By some sequence still not yet clear, the American psyche curdled badly by the seventies. The improvement of our human condition, individually and nationally, our raison d'etre, became perfunctorily mechanical. **There was no spirit anywhere.***

...the deeper shock, then, was not that we lost [the war], but that we lost with such ease, with an effortlessness that approached divine imperturbability. In terms of image, the world was presented with the Statue of Liberty, not as an inviolate emblem but as a vacuously grinning old whore, who after a token assault was debauched and then rolled docilely in the hay.

*...U.S. citizens, including the Great Silent Majority, did not, after all, especially care who led them. **What counted was that they did not have to lead themselves.***

*We proved the lie, were served up with a gagging portion of our vintage distillation of apocalyptic horseshit--all the narcissistic swill about indomitable spirit, invincibility, courage and nobility of purpose--and demonstrated once and for all to those who looked on with interest a fact long suspected: that this nation through a self-administered indoctrination of spurious righteousness, larded with the false rewards of superfluous luxury, had at last achieved the most tractable, malleable--**let's face it, spineless--people to walk the face of the earth.***

-- Oliver Lange; Defiance

When a Denver woman was asked on 15 April why she continued to fund an oppressive government, she replied:

Oh, I don't pay taxes--I get money back!

The historical cycle of slavery-freedom-slavery is being repeated in America. People go:

- ① from **bondage** to spiritual faith,
- ② from **spiritual faith** to courage,
- ③ from **courage** to liberty,
- ④ from **liberty** to abundance,
- ⑤ from **abundance** to selfishness,
- ⑥ from **selfishness** to complacency,
- ⑦ from **complacency** to apathy,
- ⑧ from **apathy** to dependency, and
- ⑨ from **dependency back to bondage.**

We're at about 8¾ right now. We've piled up a hundred years of political and judicial trash in America's closet for us to be buried under in the eventual avalanche. Old people are surviving on canned cat food because they *believed* Roosevelt's lie of "Social Security" and didn't bother to save for their future. The whole country is cramming into mobile homes because they don't have the *guts* to stand up to outrageous taxation. We panic over our 1040's every April 15th like hick tourists rushing to pack up before hotel checkout time.

Men fight for liberty and win it with hard knocks. Their children, brought up easy, let it slip away, poor fools. And their grandchildren are once more slaves.

-- D.H. Lawrence; *Studies in Classic American Literature*

The price of liberty is eternal vigilance. Instead of patrolling the dark political corridors of our nation, we set up TV cameras in the lobby of elections, and propped up our feet for the Superbowl. **That's not vigilance.**

Vigilance is a howl of indignant derision so frightful that Congressmen wouldn't dare sponsor a bill such as the *National Banking Act* of 1933 curtailing jealously guarded freedoms. *Vigilance* means executive officers being literally afraid for the lives if they enforce unconscionable legislation. *Vigilance* means judges wondering if the noose awaits them if they uphold tyranny. Anything less is a paper tiger.

American's comprehension of liberty and the threats to its survival has declined sharply since the nation's birth. The Massachusetts colonists rebelled after the British agents received "writs of assistance" that allowed them to search any

colonist's property. Modern Americans submit passively to government sweep searches of buses, schools, and housing projects. Virginia revolted in part because King George imposed a two-pence tax on the sale of a pound of tea; Americans today are complacent while Congress imposes billions of dollars of retroactive taxes--even on people who have already died. Connecticut rebelled in part because the British were undermining the independence of judges; nowadays, federal agencies have the power to act as prosecutor, judge, and jury in suits against private citizens. Maine revolted in part because the British Parliament issued a decree confiscating every white pine tree in the colony; modern Americans are largely complacent when local governments impose almost unlimited restrictions on individuals' rights to use their own property. **The initial battles of the Revolution occurred after British troops tried to seize the colonists' private weapons;** today, residents in Chicago, Washington, D.C., and other cities submit to de facto prohibitions on handgun ownership imposed by the same governments that grossly fail to protect citizens from private violence.

The 1775 Revolution was largely a revolt against growing arbitrary power. ... The [revolutionaries] looked at the liberties they were losing, while modern Americans focus myopically on the [few] freedoms they still retain.

--James Bovard; *Lost Rights* (1995), p.6

According to my observations, mankind are among the most easily tamable and domesticable of all creatures in the animal world. They are readily reducible to submission, so readily conditionable (to coin a word) as to exhibit an almost incredibly enduring patience under restraint and oppression of the most flagrant character. So far are they from displaying any overweening love of freedom that **they show a singular contentment with a condition of servitorship, often showing a curious canine pride in it,** and again often simply unaware that they are existing in that condition.

--Albert Jay Nock; *The Memoirs of a Superfluous Man*

Most curiously, the Constitution actually *encourages* political apathy. The people do not watch over Congress because that's the Supreme Court's "duty." Congressmen then pass any laws they choose, no matter how oppressive, with no punishment but a painless judicial "Not this time."

Americans--wake up! Every Patriot I know is carrying the load of ten people because the rest of the country sitting on its fat duff. If you're not spending as many hours a day working to reestablish Liberty in America as you do watching TV, then don't whine to me about how harsh I am.

We have much work to do. **Pick one issue and make some noise.** Oh, you're just *one* individual? So was Gregory Watson, who revived that compensation amendment proposed in 1789. **Well, what have you done?** What's *your* excuse--that you're not some college sophomore?

Pick one issue and make some noise! You've overslept, so get moving! Even if you think the Machine is unbeatable, throw sand in its gears--or at least give aid to those who do. You owe the rest of us, and your children, at least *that*. **Let us all live virtuously and courageously in order to write a virtuous, courageous history!**

One small problem...

The only thing is, the Federal Government doesn't *want* a revival of Liberty and will use its military might to hold us captive. Nobody, however, wants to fire that *first* shot.

The feds have been wise to unroll their oppression on us slowly. Each new affront, each new fascist Congressional Act, while obscene, isn't *quite* enough to spark a revolt. Ruby Ridge didn't do it. Waco didn't do it. The "assault weapons" ban didn't do it. The feds want a revolt even less than we do, for they know they'll lose.

The plan is, obviously, to gradually paint our freedom in a corner before we jump out of the way. Piecemeal tyranny has worked because Americans forgot the following wisdom:

It is proper to take alarm at the first experiment of our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The freemen...did not wait ti/ usurped power had strengthened itself by exercise, and entangled the question in [legalistic] precedents. They saw all the consequences in the principle, and avoided the consequences by denying the principle.

--James Madison

Introducing...Patriot Light!

A third less courage than the regular Patriot!

The spineless, sellout "conservatives"

[The Nazis]...came for the Jews, but I wasn't a Jew, so I didn't speak out. They came for the trade unionists, but I wasn't a trade unionist, so I didn't speak out. They came for the Catholics, but I wasn't a Catholic, so I didn't speak out. **Then they came for me, and there was no one left to speak out!**

-- Reverend Niemuller

When men reduce their virtues to the approximate, then evil acquires the force of an absolute; when loyalty to an unyielding purpose is dropped by the virtuous, it's picked up by scoundrels--and you get the indecent spectacle of a cringing, bargaining traitorous good and a self-righteously uncompromising evil.

-- Ayn Rand; *Atlas Shrugged*

A society of sheep must in time beget a government of wolves.

-- Bertrand de Juvenal

Do you know *why* conservatives and Patriots get so upset at the passage of each new oppressive congressional act? **They already know that they will likely comply.** Present outrage stems from the imagined pain of their future obedience. They *know* that they'll redraw their line in the sand.

Folks, draw the line *somewhere* and keep things in perspective. If Congress passed a bill demanding that you throw your children off a cliff, would you comply--even if the fedgoons tried to enforce it? Of course not! So why is everybody so unhinged about some future gun ban? **Why should we even *care*, much less get our blood pressure up?** Firmly commit to principle, draw your line *in advance*, make plans, and quit howling about what Congress does!

If my rough talk is making you uncomfortable--good. **It's better to discover your lack of mettle *now* instead of later.** Quit playing Patriot or Libertarian or Republican or free-market advocate. Quit the NRA and sell your guns, assuming you had the nerve to ever own any. **Quit fooling**

yourself--wimp. Tear up your von Mises Fan Club Card. Cancel your subscription to the *National Review*.

*The country that draws a broad line between its fighting men and its thinking men **will find its fighting done by fools and its thinking done by cowards.***

-- Sir William F. Butler

***If ye love wealth greater than liberty,**
the tranquility of servitude greater
than the animating contest for freedom,
go home from us in peace.*

*We seek not your counsel, nor your arms,
Crouch down and lick the hand that feeds you;
and may posterity forget that ye were our countrymen.*

-- Samuel Adams

If you penny-loafer conservatives--you slaves in splendor--had even schoolyard courage, we'd have a free America today. But, no, you chirped for the gilded cage. And you got it--for *all of us*. Our vile "leaders" are not the *real* enemy. *You* are.

The only man who makes slavery possible is the slave.

-- John W. Campbell, Jr.

Quit playing "American," pick a battle and step into the ring!

To rebel in season** (when victory is sure) **is not to rebel.

-- Greek proverb

The Eastern Bloc "demonstrations" of 1989 were totally "*in season*" because the Communist regimes *allowed* the people to "rebel" in preparation for the politically timed demise of the Soviet satellite governments. I know--I was *there*. They rebelled without risk. It wasn't like the *real* uprisings of 1953 in East Berlin or 1989 at Tiananmen Square where people were shot and killed for throwing rocks at tanks.

The First American Revolution

In 1775, the British were *not* going to be allowed to take away the militia's *rifles--period*. Americans knew to avoid the consequences of tyranny by denying its principle. Hear now from Patrick Henry at St. John's Church in Richmond, Virginia in 1775:

Sir, we have done everything that could be done to avert the storm which is coming on. We have petitioned--we have remonstrated--we have supplicated. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt... In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. **If we wish to be free--if we mean to preserve inviolate those inestimable privileges for which we have so long contending--if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object to our contest shall be obtained--we must fight! I repeat it sir, we must fight! An appeal to arms and the God of Hosts is all that is left to us!**

They tell us sir that we are weak--unable to cope with so formidable an adversary. **But when shall we be stronger? Will it be next week or the next year? Will it be when we are totally disarmed?...** Shall we gather strength by irresolution and inaction? Shall we require the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of those means which the God of nature hath placed in our power... Besides Sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends... The battle sir, is not to the strong alone; it is to the vigilant, the active, the brave... **There is no retreat, but in submission and slavery.** Our chains are forged; their clanking may be heard on the plains of Boston! **The war is inevitable--let it comet** Gentlemen may cry peace, peace--but there is no peace. **The war is actually begun... Our brethren are already In the field! Why stand we here Idle?** What is it that gentlemen wish? What would they have? **Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery?** Forbid it, Almighty God! I know not what course others may take; but as for me, **give me liberty, or give me death!**

Jefferson summed up the hearts of many when he wrote the Declaration of Independence:

[W]henver any... Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it; and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

There were no "Patriot Lights" on 4 July 1776

The price paid by many of the signers was staggering:

Francis Lewis had his home burned and his wife tortured by the British for two years. She died shortly after her release.

John Hart's home was looted and burned, his ailing wife died and his 13 children were scattered. He eluded capture by sleeping in caves.

The 1,000 acre estate of **Lewis Morris** was ransacked and burned. His home was destroyed, his cattle butchered, and his family driven off.

Richard Stockton was imprisoned and repeatedly beaten at the brink of starvation. His home was destroyed, his papers burned.

Carter Braxton saw virtually every merchant ship he owned sunk or captured. He was forced to sell off his land.

Thomas Nelson, Jr. led 3,000 Virginia militia against the British. Redcoats took refuge in his own home, so he turned a cannon on it.

Rebel "out of season" when it's truly necessary and truly risky. Your assets have already been conscripted by the State. The UN bureaucrats are drooling over your children. **Right now we're in the calm before the stormtroopers.** Get involved *now* so that we might not *have* to give 'em our teeth later. Lose some sweat before we must lose some blood.

Those who profess to favor freedom, and yet depreciate agitation, are men who want crops without plowing up the ground. They want rain without thunder or lightning. They want the ocean without the awful roar of its waters. This struggle may be a moral one; or it may be a physical one; or it may be both moral and physical; but it must be a struggle. Power concedes nothing without demand.

Find out Just what people will submit to, and you have found out the exact amount of Injustice and wrong which w/ll be Imposed upon them; and these will continue until they are resisted with either words or blows, or with both.

The limits of tyrants are prescribed by the endurance of those whom they oppress.

-- Frederick Douglass, a self-freed black slave, in 1857

What counts, and what will count, is how you lived your life. How are you living your life right now? For honor and decency--courageously? Or...for ease and comfort--cowardly?

These are the times that try men's souls. The summer soldier and sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands now deserves the love and thanks of man and woman. Heaven knows how to put a proper price upon its goods; and It would be strange indeed if so celestial an article as Freedom should not be highly rated.

--Thomas Paine

Freedom has always relied upon flesh and blood, not paper. That's been our problem--we *trusted the parchment* and left the sustenance of our liberty up to mere words.

*I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes, believe me, these are false hopes. **Liberty lies in the hearts of men and women;** when it dies there, no constitution, no law, no court can even do much to help it. **While it lies there it needs no constitution, no law, no court to save it.***

-- Judge Learned Hand

If you ever visit our National Archives in Washington, D.C., you'd be surprised to discover that the ink on the Declaration of Independence has faded so badly that it's almost illegible, while the Constitution is still quite clear. I construe this sad fact as a bitter analogy of our national psyche. We've put so much emphasis on the *Constitution* that the Declaration of Independence has, after 221 years, faded from our spirit and is nearly illegible on our hearts. We've been domesticated.

...between freedom and sandwiches, they will choose sandwiches.

-- Lord Boyd-Orr

Embracing dependency and Hamiltonian "*sandwiches*," we've all but lost Jeffersonian "*freedom*" and independence.

Even though the Constitution is a hologram of liberty, you can't afford to be. Think. Decide. Act. Now.